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ABSTRACT

The concordance is designed to serve as a reference for administrators, supervisors, and others responsible for the implementation of P.L. 94-142, Education for All Handicapped Children Act. Specific references to the law along with compliance policy and procedure guidelines are presented in table format for the following major divisions of the federal regulations: administration; advisory panel (state); allocations; annual program plan; applicability of regulations; application by a local agency; complaints; comparable services; consent; confidentiality of information; count of children; due process; evaluation; excess costs; free appropriate public education; full educational opportunity goal; handicapped children; hearings; identification, location, and evaluation; Indian children; individualized education program; least restrictive environment; matching (state funds); monitoring; non-discrimination; notice; personnel development; physical education; priorities; private school children; procedural safeguards; public participation; records; related services; reports; special education; state advisory panel; state direct and support services; supplanting (with federal funds); surrogate parents; time limits and timetables; and use of Part B funds. (SBH)

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Concordance for the Implementation of PL 94-142

by

Frank A. Ameruoso, Ph.D.

Purpose: This concordance will serve as a ready reference for administrators, supervisors and others responsible for the implementation of PL 94-142.

Content: This concordance contains specific references to: PL 94-142 known as "Education for All Handicapped Children Act of 1975," approved November 29, 1975 by the 94th Congress. Citations of PL 94-142 will be made using the following designations: 20 USC 1401, etc. Specific references are also made to the Federal Regulations issued by the Department of Health, Education and Welfare (Office of Education) as found in the Federal Register, Vol. 42, No. 163, Tuesday, August 23, 1977 (Implementation of Part B of the Education of the Handicapped Act) Part II. Citations of the Federal Register will be made using the designations found under Part 121a., and will correspond to Subparts A through G. Finally, specific references are made to the Pennsylvania Code Title 22, Education, Chapter 341 (relating to standards for Special Education) as adopted pursuant to the authority contained in the act of May 9, 1949 (P.L. 1017) as amended (24 P.S. Section 13-1371 et seq.) and 22 Pa. Code Section 13.1 et seq. The text of these rules and regulations reads as set forth in Annex A, Title 22 Education, Part XVI Standards, Chapter 341. Standards for Special Education as printed in the Pennsylvania Bulletin, Vol. 7, No. 40-Saturday, October 1, 1977. Citations of the Standards for Special Education will be made using the designations found under Chapter 341 Sections 1, 11, 12, 13, 15, 16, 17, 18, 21, 22, 31, 32, 33, 35, 51, 53, 55, 57, 58, 59 and 71.

Organization: The concordance is organized to correspond to the major divisions of the Federal Regulations, e.g., Individualized Education Program, Least Restrictive Environment. The components of each major division are alphabetized for easy reference. Vertically, the concordance lists the major division as ITEM. The components are listed under the ITEM specification (alphabetized). Horizontally, the specifications of PL 94-142, the Federal Regulations and the State Standards are cited by number (see, above). Finally, the compliance policies and procedures issuing from the Federal Regulations and the State Standards are identified. The identification is not meant to be an exhaustive reproduction of the specifications, but rather a functional paraphrasing of the statutes that would serve administrative/supervisor/other needs. ITEMS are cross-referenced to insure comprehensive coverage. Note: The abbreviation: F.R. will stand for Federal Regulations; the abbreviation: S.S. will stand for State Standards. All other abbreviations/acronyms will be listed on a separate page in the concordance.

Use

The Concordance may be used in a variety of ways. The reader will determine which way or combination of ways best suits his/her needs. The following are some suggested methods of usage.

Individual Segments:

Each of the major divisions in a complet entity and incorporates the most significant segments of the Federal Regulations and Pennsylvania State Standards for Special Education. The major divisions are coded with Roman numerals which facilitates idenfification and cross-referencing. Should the reader opt for information on a specific topic e.g., Least Restrictive Environment, he/she would consult the page entitled, Code for Major Divisions (ITEM), locate the desired topic and proceed to the specific index preceding that major division. The index contains a listing of the components on that topic (ITEM) and identifies the pages on which the components are to be found. He/she may then decide to read the complete ITEM or whichever components most suit his/her needs. Since each of the major divisions is cross-referenced, it may be necessary for the reader to refer to another ITEM.

Specific References:

The cumulative index at the end of the Concordance contains over 600 specific references for the reader who is interested in locating them. The index is cross-referenced with technical terminology found in the Federal Regulations and where appropriate, with popular terminology, to permit the reader ready access to any needed information. The citations in the index are consistent with usage within the Concordance i.e., ITEM, Component, etc.

Cumulative References.

By design, the cumulative index permits the reader/researcher to gather all appropriate information on a specific topic. The reader simply scans the index for all the needed information and lists the entries as they relate to all the appropriate ITEMS. This list will then represent all the information contained in the Federal Regulations and the State Standards without the reader having to refer to either of the aforementioned documents.

Abbreviations/Acronyms

ESEA= Elementary and Secondary Education Act (1965)

F.R.= Federal Regulations

I.E.P.= Individualized Education Program

LEA= Local Educational Agency

LRE= Least Restrictive Environment

PDE= Pennsylvania Department of Education

PPC= Program Planning Conference

SEA= State Educational Agency

S.S.= State Standards (Special Education)

USC= United States Congress

Code for Major Divisions (ITEM)

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II.	Advisory Panel (State)
III.	Allocations
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by Frank A. Ameruoso, Ph.D.

1 Administration

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Administration	PL94-142	Federal Regulations State Standards	
Annual Program Plan Requirements		F.R. 121a. 112	Certification by the SEA and Attorney General. See- IV ITEM: Annual Program Plan (Certification).
		F.R. 121a. 134	Responsibility of SEA for All Educational Program. See-IV ITEM: Annual Program Plan (Contents).
		F.R. 121a. 138	Other Federal Programs. See-IV ITEM: Annual Program Plan (Contents)
		F.R. 121a. 141	Recovery of Funds for Misclassified Children. See- IV ITEM: Annual Program Plan (Contents).
		F.R. 121a. 142	Control of Funds and Property. See- IV ITEM: Annual Program Plan (Contents).
		F.R. 121a. 145	Prohibition of Commingling. See-IV ITEM: Annual Program Plan (Contents).
Certification of State Authority		F.R. 121a. 112	Certification by SEA. (See above)
Direct Service by SEA	20 USC 1411(c) (4), 1413(b), 1414(d)	F.R. 121a. 360	Use of LEA Allocation for Direct Services. (a) An SEA may not distribute funds to an LEA, and shall use these funds to insure the provision of a free appropriate public education to handicapped children residing in the area served by the LEA, if the LEA, in any fiscal year: (1) Is entitled to less than $7500 for that fiscal year (beginning with fiscal year 1979); (2) Does not submit an application; (3) Is unable or unwilling to establish and maintain programs of FAPE; (4) Is unable or unwilling to be consolidated with other LEA's in order to estab lish and maintain

I Administration

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Administration	PL94-142	Federal Regulations State Standards	
Direct Service by SEA con't.		F.R. 121a. 360	those programs, or (5) Has one or more handicapped children who can best be served by a regional or State center designed to meet the needs of those children. (b) In meeting the requirements of paragraph (a) of this section, the SEA may provide special education and related services directly, by contract, or through other arrangements. (c) Excess cost requirements under 121a. 182-186 do not apply to the State educational agency.
Local Application Requirements	20 USC 1414(a) (2)(A)	F.R. 121a. 228	Public Control Funds. Each application must provide assurance satisfactory to the SEA that control of funds provided under Part B of the Act and title to property acquired with those funds, is in a public agency for the uses and purposes under this part, and that a public agency administers the funds and property.
	20 USC 1414(a) (6)	F.R. 121a. 236	Local Policies Consistent with Statute. Each application must provide assurance satisfactory to the SEA that all policies and programs which the LEA establishes and administers are consistent with section 612(1)-(7) and section 613(a) of the Act.
	20 USC 1414(a) (6)	F.R. 121a. 240	Other Requirements. Each local application must include additional procedures and information which the SEA may require in order to meet the State annual program plan requirements.
Local Education Agency (Definition)	20 USC 1401 (8)	F.R. 121a. 8	Local Educational Agency.

1 Administration

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
	PL94-142	Federal Regulations	
Administration		State Standards	
Local Education Agency (Definition) con't.		F.R. 121a. 8	(a) As used in this part, the term "local educational agency" means a public board of education or other public authority legally consituted within a State for either administration control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school. (b) For the purposes of this part, the term "local educational agency" also includes intermediate educational units.
State Administration	20 USC 1412 (6)	F.R. 121a. 600	Responsibility for All Educational Programs. (a) The SEA is responsible for insuring: (1) That the requirements of this part are carried out; and (2) That each educational program for handicapped children administered within the State, including each program administered by any other public agency: (i) Is under the general supervision of the persons responsible for educational programs for handicapped children in the SEA, and (ii) Meets education standards of the SEA (including the requirement of this part). (b) The State must comply with paragraph (a) of this section through State statute, State reg-

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1 Administration

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Administration	PL94-142	Federal Regulations State Standards	
State Administration con't.		F.R. 121a. 600	ulation, signed agreement between respective agency officials, or other documents.
		F.R. 121a. 601	Monitoring and Evaluation Activities. See-XL1 ITEM: Time Limits and Timetables (State Monitoring).
	20 USC 1412 (6)	F.R. 121a. 602	Adoption of Complaint Procedures. (a) Each State educational agency shall adopt effective procedures for reviewing, investigating, and acting on any allegations of substance, which may be made by public agencies, or private individuals, or organizations, of actions taken by any public agency that are contrary to the requirements of this part. (b) In carrying out the requirements in paragraph (a) of this section, the SEA shall: (1) Designate specific individuals within the agency who are responsible for implementing the requirements; (2) Provide for negotiations, technical assistance activities, and other remedial action to achieve compliance; and (3) Provide for the use of sanctions, including the witholding of Part B funds.

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II Advisory Panel

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Advisory Panel	PL94-142	Federal Regulations State Standards	
Annual Program Plan Requirements		F.R. 121a. 147	State Advisory Panel. See-IV ITEM: Annual Program Plan (Contents)
General Requirements	20 USC 1413(a)(12)	F.R. 121a. 652	Advisory Panel Functions. See-XIII ITEM: Evaluation (Advisory Panel Function).
	20 USC 1413(a)(12)	F.R. 121a. 653	Advisory Panel Procedures. (a) The advisory panel shall meet as often as necessary to conduct its business. (b) By July 1 of each year, the advisory panel shall submit an annual report of panel activities and suggestions to the SEA. This report must be made available to the public in a manner consistent with other public reporting requirements under this part. (c) Official minutes must be kept on all panel meetings and shall be made available to the public on request. (d) All advisory panel meetings and agenda items must be publicly announced prior to the meeting, and meetings must be open to the public. (e) Interpreters and other necessary services must be provided at panel meetings for panel members or participants. The State may pay for these services from funds under #121a. 620 (Federal Funds for State Administration). (f) The advisory panel shall serve without compensation but the State must reimburse the panel for reasonable and necessary expenses for attending meetings and performing duties. The State may use funds under 121a. 620 for this purpose.

II Advisory Panel

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Advisory Panel	PL94-142	Federal Regulations State Standards	
General Requirements	20 USC 1413 (a)(12) (cont.)	F.R. 121a. 650	Establishment. (a) Each State shall establish a State advisory panel on the education of handicapped children. (b) The advisory panel must be appointed by the Governor or any other official authorized under State law to make those appointments. (c) If a State has an existing advisory panel that can perform the functions in 121a. 652 (see, above), the State may modify the existing panel so that it fulfills all of the requirements of this subpart, instead of establishing a new advisory panel.
	20 USC 1413 (a)(12)	F.R. 121a. 651	Membership. (a) The membership of the State advisory panel must be composed of persons involved in or concerned with the education of handicapped children. The membership must include at least one person representative of each of the following groups: (1) Handicapped individuals. (2) Teachers of handicapped children. (3) Parents of Handicapped children. (4) State and local educational officials. (5) Special education program administrators. (b) The State may expand the advisory panel to include additional persons in the groups listed in paragraph (a) of this section and representatives of other groups not listed.

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III Allocations

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Allocations	PL94-142	Federal Regulations State Standards	
Annual Program Plan Condition of Assistance		F.R. 121a. 110	Condition of Assistance. See- IV ITEM: Annual Program Plan (Condition of Assistance)
Application by Local Agency Condition of Assistance	20 USC 1414(a)	F.R. 121a. 180	Submission of Application. In order to receive payments under Part B of the Act for any fiscal year an LEA must submit an application to the SEA.
Consolidated Applications	20 USC 1414(c)(2)(A)	F.R. 121a. 191	Payments Under Consolidated Applications. In any case in which a consolidated application is approved by the SEA, the payments to the participating LEA's must be equal to the sum of the entitlements of the separate local educational agencies.
Count of Children			See-XXXV ITEM: Reports.
Interior Department for Indian Children	20 USC 1411 (f) (1)	F.R. 121a. 709	Payments to Secretary of Interior. (a) The Commissioner is authorized to make payments to the Secretary of the Interior according to the need for that assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. (b) The amount of those payments for any fiscal year shall not exceed one percent of the aggregate amounts available to all States for that fiscal year under Part B of the Act.

III Allocations

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Allocations	PL94-142	Federal Regulations State Standards	
Local Agency Allocation (Formula)	20 USC 1411(b)(1)	F.R. 121a. 705	Within-State Distribution; Fiscal Year 1978. Of the funds received by any State for fiscal year 1978: (a) 50 percent may be used by the State, and (b) 50 percent shall be distributed to local educational agencies in the State.
(Reallocation)	20 USC 1411(c)	F.R. 121a. 706	Within State Distribution; Fiscal Year 1979 and After. Of the funds received by any State for fiscal year 1979: (a) 25 percent may be used by the State, and (b) 75 percent shall be distributed to LEA's in the State.
(Use by State)	20 USC 1411 (d)	F.R. 121a. 707	LEA Entitlements: Formula. From the total amount of funds available to all LEA's, each LEA is entitled to an amount which bears the same ratio to the total amount as the number of handicapped children ages three through 21 in that agency who are receiving special education and related services bears to the aggregate number of handicapped children aged three through 21 receiving special education and related services in all LEA's which apply to the SEA for funds under Part B of the Act.
Outlying Areas	20 USC 1411 (e)	F.R. 121a. 710	Entitlements to Jurisdiction. (a) The jurisdictions to which this section applies are Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

III Allocations

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Allocations	PL94-142	Federal Regulations State Standards	
Outlying Areas cont.		F.R. 121a. 710	(b) Each jurisdiction under paragraph (a) of this section is entitled to a grant for the purposes set forth in section 601(c) of the Act. The amount in which those jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 1 percent of the aggregate of the amounts available to all States under this part for that fiscal year. Funds appropriated for those jurisdictions shall be allocated proportionately among them on the basis of the number of children aged three through twenty-one in each jurisdiction. However, no jurisdiction shall receive less than $150,000, and other allocations shall be ratably reduced if necessary to insure that each jurisdiction receives at least that amount. (c) The amount expanded for administration by each jurisdiction under this section shall not exceed 5 percent of the amount allotted to the jurisdiction for any fiscal year, or $35,000, whichever is greater.
Recovery for Misclassified Children		F.R. 121a. 141	Recovery of Funds for Misclassified Children. See- IV ITEM: Annual Program Plan (Contents).
State Allocation (Formula)	20 USC 1411(a)(1)	F.R. 121a. 701	State Entitlement: Formula. (a) The maximum amount of the grant to which a State is entitled under section 611 of the Act in any fiscal year is equal to the number of handicapped children aged three through twenty-one in the State who are reveiving special

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III Allocations

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Allocations	PL94-142	Federal Regulations State Standards	
State Allocation (Formula) con't.		F.R. 121a. 701	education and related services, multiplied by the applicable percentage, under paragraph (b) of this section, of the average per pupil expenditure in public elementary and secondary schools in the United States. (b) For the purposes of the formula in paragraph (a) of this section, the applicable percentage of the average per pupil expenditure in public elementary and secondary schools in the United States for each fiscal year is: ( ) 1978-5 Percent. (2) 1979-10 Percent, (3) 1980-20 percent, (4) 1981-30 percent, and (5) 1982, and for each fiscal year after 1982, 40 percent. (c) For the purposes of this section, the average per pupil expenditure in public elementary and secondary schools in the United States, means the aggregate expenditures during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available) of all LEA's in the United States (which for the purpose of this section, means the fifty States and the District of Columbia), plus any direct expenditures by the State for operation of those agencies (without regard to the source of funds from which either of those expenditures are made), divided by the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.
	20 USC 1411 (a) (4)		

III Allocations

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Allocations	PL94-142	Federal Regulations State Standards	
State Allocation (Formula) con't.	20 USC 1411(a)(5)	F.R. 212a. 702	Limitations and Exlusions. (a) In determining the amount of a grant, the Commissioner may not count: (1) Handicapped children in a State to the extent that the number of those children is greater than 12 percent of the number of all children aged five through seventeen in the State, and (2) Children with specific learning disabilities to the extent that the number of those children is greater than two percent of the number of all children ages five through seventeen in the State, and (3) Handicapped children who are counted under section 121 of the ESEA of 1965. (b) For the purposes of paragraph (a) of this section, the number of children aged five through seventeen in any State shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.
	20 USC 1411 (g) (1)	F.R. 121a. 703	Ratable Reductions. (a) General. If the sums appropriated for any fiscal year for making payments to the States under section 611 of the Act are not sufficient to pay in full the total amounts to which all States are entitled to receive for that fiscal year, the maximum amount which all States are entitled to receive for that fiscal year shall be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence is applicable, those reduced amounts shall be increased on the same basis they were reduced.

III Allocations

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Allocations	PL94-142	Federal Regulations State Standards	
State Allocation (Formula) con't.		F.R. 121a. 703	(b) Reporting dates for LEA's and reallocations. (1) In any fiscal year in which the State entitlements have been ratably reduced, and in which additional funds have not been made available to pay in full the total of the amounts under paragraph (a) of this section, the SEA shall fix dates before which each LEA shall report to the State the amount of funds available to it under this part which it estimates it will expend. (2) The amounts available under paragraphs (a)( ) of this section, or any amount which would be available to any other LEA determines will not be used for the period of the availabilty, shall be available for allocation to those LEA's which the SEA determines will need and be able to use additional funds to carry out approved programs.
		F.R. 121a. 705	Within-State Distribution. (See, above: LEA Allocation).
		F.R. 121a. 706	Within-State Distribution. (See, above: LEA Allocation).
State Allocation (Hold Harmless)	20 USC 1411(a)(1)	F.R. 121a. 704	Hold Harmless Provision. No State shall receive less than the amount it received under Part B of the Act for fiscal year 1977.
(Use for Administration)	20 USC 1411(b)(c)	F.R. 121a. 620	Federal Funds for State Administration. A State may use five percent of the total State allotment in any fiscal year under Part B of the Act, or $200,000, whichever is greater, for administrative costs related to carrying out sections 612 and 613 of the Act.

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III Allocations

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Allocations	PL94-142	Federal Regulations State Standards	
(Use for Administration) con't. State Allocation	20 USC 1411 (b)(c)	F.R. 121a. 620	However, this amount cannot be greater than the amount which the State may use under #121a. 704 or 705 (see, above) as the case may be.
	20 USC 1411 (b)(c)	F.R. 121a. 621	Allowable Costs. (a) The SEA may use funds under #121a. 620 (see, above) of this Subpart for: (1) Administration of the annual program plan and for planning at the State level, including planning, or assisting in the planning, of programs, or projects for the education of handicapped children; (2) Approval, supervision, monitoring, and evaluation of the effectiveness of local programs and projects for the education of handicapped children; (3) Technical assistance to LEA's with respect to the requirements of this part, (4) Leadership services for the program supervision and management of special education activities for handicapped children; and (5) Other State leadership activities and consultative services. (b) The SEA shall use the remainder of its funds under #121a. 620 (see, above) in accordance with #121a. 370 of Subpart C (relating to use of State allocation for direct and support services).
Withholding			See-XVIII ITEM: Hearings.
Withholding (From the Local Agency)		F.R. 121a. 194	Withholding. See- XVIII ITEM: Hearings (Disapproval of Local Application).
		F.R. 121a. 590	Withholding Payments. See- XVII ITEM: Hearings (Office of Education Procedures).

III Allocations

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Allocations	PL94-142	Federal Regulations State Standards	
Withholding (From the Local Agency) con't.		F.R. 121a. 591	Reinstating Payments. See- XVIII ITEM: Hearings (Office of Education Procedures).
		F.R. 121a. 592	Public Notice by State and Local Educational Agencies. See- XVIII ITEM: Hearings (Office of Education Procedures).
		F.R. 121a. 593	Judicial Review of Commissioner's Final Action on Annual Program Plan. See- XVIII ITEM: Hearings (Office of Education Procedures).

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IV Annual Program Plan

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plan	PL94-142	Federal Regulations State Standards	
Approval (Disapproval)	20 USC 1413 (a), 1232c(b)	F.R. 121a. 113	Approval;Disapproval. (a) The Commissioner shall approve any annual program plan which meets the requirements of this part and Subpart B of Part 100b of this chapter (State Administered Programs). (b) The Commissioner shall disapprove any annual program plan which does not meet those requirements but may not finally disapprove a plan before giving reasonable notice and an opportunity for a hearing to the SEA. (c) The Commissioner shall use the procedures set forth in #121a. 580-583 of Subpart E (Procedural Safeguards) for a hearing under this section.
		S.S. 341. 35	Approval of Plans. (a) General rule. Intermediate unit plans for the operation of special education programs and services shall be submitted to the DSE, Division of Special Education, for approval when the requirements of #341.31 and 341.32 of this title (relating to plans and development of plans) are met. (b) Criteria. To determine compliance with #341.32 (relating to development of plans) and #341.33 (relating to content of plans) the Department will apply the following criteria: (1) Based on expected incidence rates, the programs are adequate in quantity to meet the needs of all severely handicapped parsons within the intermediate unit. (2) Based on incidence rates, the programs are adequate in quantity and variety to meet the needs of persons of every exceptionality as defined in #341.1 of this title (relating to definitions). (3)

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plans	PL94-142	Federal Regulations State Standards	
Approval (Disapproval)		S.S. 341.35	Based on expected incidence rates, there is a full continuum of programs and services to permit the least restrictive assignment and the appropriate services in accordance with #13.11(d) (relating to program responsibilities) and #341.51 of this title (relating to organization). (4) Based on the following table, programs are adequate to deliver quality special education services. The plan may justify deviation from the table by describing why deviation will not affect or will enhance the quality of the programs. Note: The table referred to is one based on Constant Enrollment (ADM) by Organizational Patterns, found on P. 2797 of these rules and regulations as it appeared in the Pennsylvania Bulletin, Vol. 7, No. 40- Saturday, October 1, 1977. (See Appendix of this concordance for table). (5) Based on a review of the curriculum in accordance with #341 55 of this title (relating to curriculum), the programs and services are educationally sound. The Department will develop and publish guidelines which describe appropriate kinds of curricula and types of service. (c) Disapproval. Plan do not meet the requirements of #341.31 and #341.32 will be disapproved. Prior to disapproval, appropriate division personnel will discuss the plan and suggest modifications with appropriate intermediate unit or school district personnel, or both. (d) Hearing. If a plan is disapproved, the intermediate unit shall be entitled to a notice and a hearing in accordance with the

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by Frank A. Ameruoso, Ph.D.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plans	PL94-142	Federal Regulations State Standards	
Approval (Disapproval) con't.		S.S. 341.35	Administrative Agency Law (71 P.S. #1710.1 1710.51) and 1 Pa. Code Part II (relating to general rules of administration and procedures).
Certifications	20 USC 1413 (a)	F.R. 121a. 112	Certification by the SEA and Attorney General. Each annual program plan must include: (a) A certification by the officer of the SEA authorized to submit the plan that: (1) The plan has been adopted by the SEA, and (2) The plan is the basis for the operation and administration of the activities to be carried out in that State under Part B of the Act; and (b) A certification by the State Attorney General or other authorized State legal officer that: (1) The SEA has authority under State law to submit the plan and to administer or to supervise the administration of the plan, and (2) All plan provisions are consistent with State law.
Conditions of Assistance to State	20 USC 1232c (b), 1412, 1413	F.R. 121a. 110	Condition of Assistance. In order to receive funds under Part B of the Act for any fiscal year, a State must submit an annual program plan to the Commissioner through its State educational agency.
Contents	20 USC 1412, 1413, 1232c(b)	F.R. 121a. 111	Contents of Plan. Each annual program plan must contain the provisions required in this subpart.
		F.R. 121a. 112	Certification... see, above.
	20 USC 1412 (7)	F.R. 121a. 120	Public Participation. (a) Each annual program plan must

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plan	PL94-142	Federal Regulations State Standards	
Contents con't.		F.R. 121a. 120	include procedures which insure that the requirements in #121a. 280-284 (Public Participation) are met. (b) Each plan must also include the following: (1) A statement describing the methods used by the SEA to provide notice of the public hearings on the annual program plan. The statement must include: (i) A copy of each news release and advertisement used to provide the notice, (ii) A list of the newspapers and other media in which the SEA announced or published the notice, and (iii) The dates on which the notice was announced or published. (2) A list of the dates and locations of the public hearings on the plan. (3) A summary of comments received by the SEA and a description of the modifications that the SEA has made in the annual program plan as a result of the comments. (4) A statement describing the methods by which the plan will be made public after its approval by the Commissioner. This statement must include information required under paragraph (b)(1) of this section.
	20 USC 1412(1)(2)(B)(6); 1413 (a) (3)	F.R. 121a. 121	Right to Free Appropriate Public Education. (a) Each annual program plan must include information which shows that the State has in effect a policy which insure that all handicapped children have the right to a free appropriate public education within the age ranges and timelines under #121a. 122 (see the following) (b) The information must include a copy of each State statute, court order, State Attorney General opinion, and other State documents that shows the source of the policy.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plan	PL94-142	Federal Regulations State Standards	
Contents (con't)		F.R. 121a. 121	(c) The information must show that the policy: (1) Applies to all public agencies in the State; (2) Applies to all handicapped children; (3) Implements the priorities established under #121a. 127 (a)(1) (Priorities) of this subpart; and (4) Establishes timelines for implementing the policy, in accordance with #121a. 122 (see the following).
		F.R. 121a. 122	Timelines and Ages for Free Appropriate Public Education. See- XLI ITEM: Time Limits and Timetables (Free Appropriate Public Education).
	20 USC 1412 (2)(A)	F.R. 121a. 123	Full Educational Opportunity Goal. Each annual program plan must include in detail the policies and procedures which the State will undertake, or has undertaken, in order to insure that the State has a goal of providing full educational opportunity to all handicapped children ages birth through twenty-one.
	20 USC 1412 (2)(A)	F.R. 121a. 124	Full Educational Opportunity Goal-Data Requirement. Beginning with school year 1978-1979, each annual program plan must contain the following information: (a) The estimated number of handicapped children who need special education and related services. (b) For the current school year: (1) The number of handicapped children ages birth through two, who are receiving special education and related services; and (2) The number of handicapped children: (i) Who are receiving a free appropriate public education, (ii) Who need, but are not receiving a free appropriate public education, (iii) Who are enrolled in public and

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plan	PL94-142	Federal Regulations State Standards	
Contents con't.	20 USC 1412 (2) (A)	F.R. 121a. 124	private institutions and are not receiving a free appropriate public education. (c) The estimated numbers of handicapped children who are expected to receive special education and related services during the next school year. (d) A description of the basis used to determine the data required under this section. (e) The date required by paragraphs (a),(b), and (c) of this section must be provided: (1) For each disability category (except for children aged birth through two), and (2) For each of the following age ranges; birth through two, three through five, six through seventeen, and eighteen through twenty-one. Note: In Part B of the Act, the term "disability" is used interchangeably with "handicapping condition."
	20 USC 1412 (2)(A)	F.R. 121a. 125	Full Educational Opportunity Goal - Timetable. See XLI ITEM: Time Limits and Timetables (Full Educational Opportunity)
	20 USC 1412 (2)(A)	F.R. 121a. 126	Full Educational Opportunity Goal - Facilities, Personnel and Services. See XLI ITEM: Time Limits and Timetables (Full Educational Opportunity)
		F.R. 121a. 126	(a) General Requirement. Each annual program plan must include a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet the goal of providing full educational opportunity for all handicapped children. The SEA shall include the data required under paragraph (b) of this section

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plan	PL94-142	Federal Regulations State Standards	
Contents con't.		F.R. 121a. 126	and whatever additional data are necessary to meet the requirement. (b) Statistical Description. Each plan must include the following data: (1) The number of additional special class teachers, resource room teachers, and itinerant or consultant teachers needed for each disability category and the number of each of these who are currently employed in the State. (2) The number of other additional personnel needed, and the number currently employed in the State, including school psychologists, school social workers, occupational therapists, physical therapists, home-hospital teachers, speech-language pathologists, audiologists, teacher aides, vocational education teachers, work study coordinators, physical education teachers, therapeutic recreation specialists, diagnostic personnel, supervisors, and other instructional and non-instructional staff. (3) The total number of personnel reported under paragraph (b)(1) and (2) of this section, and the salary costs of those personnel. (4) The number and kind of facilities needed for handicapped children and the number and kind currently in use in the State, including regular classes serving handicapped children, self-contained classes on regular school campus, resource rooms, private special education day schools, private special education residential schools, public special education residential schools, hospital programs, occupational therapy facilities, physical therapy facilities, public sheltered workshops, and other types of facilities.

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Annual Program Plan	PL94-142	Federal Regulations State Standards	
Contents con't.		F.R. 121a. 126	(5) The total number of transportation units needed for handicapped children, the number of transportation units designed for handicapped children which are in use in the State, and the number of Handicapped children who use these units to benefit from special education.
		F.R. 121a. 126	(c) Data Categories. The data required under paragraph (b) of this section must be provided as follows: (1) Estimates for serving all handicapped children who require special education and related services. (2) Current year data, based on the actual numbers of handicapped children receiving special education and related services (as reported under Subpart G- Reports), and (3) Estimates for the next school year. (d) Rationale. Each annual program plan must include a description of the means used to determine the number and salary costs of personnel
	20 USC 1412 (3)	F.R. 121a. 127	Priorities. (a) General Requirement. Each plan must include information which which shows that: (1) The State has established priorities which meet the requirements under #121a. 320-324 of Subpart C- Priorities in the Use of Part B Funds. (2) The State priorities meet the timelines under #121a. 122 of this subpart, and (3) The State has made progress in meeting those timelines. (b) Child Data. (1) Each plan must show the number of handicapped children known by the State to be in each of the first two priority groups named in #121a. 321 of Subpart C- First priority children and second priority children. See: XXI ITEM: I.E.P. (First Priority

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Annual Program Plan	PL94-142	Federal Regulations State Standards	
Contents con't.		F.R. 121a. 127	Children) (1) By disability category, and (2) By the age ranges in #121a. 124(e)(2) see above, of this subpart. (c) Activities and Resources. Each plan must show for each of the first two priority groups: (1) The programs, services, and activities that are being carried out in the State, (2) The Federal, State, and local resources that have been committed during the current school year, and (3) The programs, services, activities and resources that are to be provided during the next year.
		F.R. 121a. 128	Identification, Location, Evaluation of Handicapped Children. See XIX ITEM: Identification, Location, Evaluation (Annual Program Plan)
	20 USC 1412 (2)(d), 1417(c)	F.R. 121a. 129	Confidentiality of Personally Identifiable Information. (a) Each annual program plan must include in detail the policies and procedures which the State will undertake or has undertaken in order to insure the protection of the confidentiality of any personally identifiable information collected, used, or maintained under this part. (b) The Commissioner shall use the criteria in #121a. 560-576 of Subpart E (Confidentiality of Information) to evaluate the policies and procedures of the State under paragraph (a) of this section.
		F.R. 121a. 130	Individualized Education Program See XXI ITEM: I.E.P. (Annual Program Plan)
	20 USC 1412 (5) (A)	F.R. 121a. 131	Procedural Safeguards. Each annual program plan must include procedural

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plan	PL94-142	Federal Regulations State Standards	
Contents con't.		F.R. 121a. 131	safeguards which insure that the requirements in #121a. 500-514 of Subpart E are met (Procedural Safeguards-Due Process Procedures).
		F.R. 121a. 132	Least Restrictive Environment. See XXII ITEM: LRE (Annual Program Plan)
	20 USC 1412 (5) (C)	F.R. 121a. 133	Protection in Evaluation Procedures. Each annual program plan must include procedures which insure that the requirements in #121a. 530-534 (Protection in Evaluation Procedures) of Subpart E are met.
	20 USC 1412 (6)	F.R. 121a. 134	Responsibility of SEA for all Educational Programs. (a) Each plan must include information which shows that the requirements in #121a. 600 (Responsibility for all Educational Programs) of Subpart F are met. (b) The information under paragraph (a) of this section must include a copy of each State statute, State regulation, signed agreement between respective agency officials, and any other document that shows compliance with that paragraph.
	20 USC 1412 (6)	F.R. 121a. 135	Monitoring Procedures. Each annual program plan must include information which shows that the requirements in #121a. 601 and 602 (Monitoring and evaluation activities; Adoption of complaint procedures) of Subpart F are met.
	20 USC 1412 (6)	F.R. 121a. 136	Implementation Procedures-SEA Each plan must describe the procedures the SEA follows to inform each public agency of its responsibility for insuring effective implementation of procedural safeguards for the handicapped children served by that public agency.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plan	PL94-142	Federal Regulations State Standards	
Contents con't.	20 USC 1412 (7)(A)	F.R. 121a. 137	Procedures for Consultation. Each plan must include an assurance that in carrying out the requirements of section 612 of the Act (Eligibility), procedures are established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents of handicapped children.
	20 USC 1413 (a)(2)	F.R. 121a. 138	Other Federal Programs. Each plan must provide that programs and procedures are established to insure that funds received by the State under any other Federal program, including section 121 of the ESEA of 1965 (20 USC 241 e-2), section 305 (b)(8) of that Act (20 USC 844a(b) (8) or Title IV-C of that Act (20 USC 1831) and section 110(a) of the Vocational Education Act of 1963, under which there is specific authority for assistance for the education of handicapped children, are used by the State, or any public agency in the State only in a manner consistent with the goal of providing a free appropriate public education for all handicapped children, except that nothing in this section limits the specific requirements of the laws governing those Federal programs.
		F.R. 121a. 139	Comprehensive System of Personnel Development. See XXVII ITEM: Personnel Development.
	20 USC 1413 (a)(4)	F.R. 121a. 140	Private Schools. Each plan must include policies and procedures which insure that the requirements of Subpart D (Private Schools) are met.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plan	PL94-142	Federal Regulations State Standards	
Contents con't	20 USC 1413(a)(5)	F.R. 121a. 141	Recovery of Funds for Misclassified Children. Each plan must include policies and procedures which insure that the State seeks to recover any funds provided under Part B of the Act for services to a child who is determined to be erroneously classified as eligible to be counted under section 611 (a) or (d) of the Act
	20 USC 1413(a)(6)	F.R. 121a. 142	Control of Funds and Property Each plan must provide assurance satisfactory to the Commissioner that the control of funds provided under Part B of the Act, and title to property acquired with those funds, is in a public agency for the uses and purposes provided in this part, and that a public agency administers the funds and property.
	20 USC 1413(a)(7)(B)	F.R. 121a. 143	Records. Each plan must provide for keeping records and affording access to those records, as the Commissioner may find necessary to assure the correctness and verification of reports and of proper disbursement of funds provided under Part B of the Act.
	20 USC 1413(a)(8)	F.R. 121a. 144	Hearing on Application. Each plan must include procedures to insure that the SEA does not take any final action with respect to an application submitted by an LEA before giving the LEA reasonable notice and an opportunity for a hearing.
	20 USC 1413(a)(9)	F.R. 121a. 145	Prohibition of Commingling. Each plan must provide assurance satisfactory to the Commissioner that funds provided under Part B of the Act are not commingled with State funds.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plan	PL94-142	Federal Regulations State Standards	
Contents con't.		F.R. 121a. 146	Annual Evaluation. See-XLI ITEM: Time Lines and Timetables (Evaluation).
	20 USC 1413 (a)(12)	F.R. 121a. 147	State Advisory Panel. Each plan must provide that the requirements of #121a. 650-653 (State Advisory Panel) of Subpart F are met.
	20 USC 1413(a)(1)	F.R. 121a. 148	Policies and Procedures for Use of Part B Funds. Each plan must set forth policies and procedures designed to insure that funds paid to the State under Part B of the Act are spent in accordance with the provisions of Part B, with particular attention given to sections 611(b), 611(c), 611(d), 612(2) and 612(3) of the Act.
	20 USC 1332c(b)(1)(B)(ii)	F.R. 121a. 149	Description of Use of Part B Funds. (a) State Allocation. Each plan must include the following information about the State's use of funds under #121a. 370 (Use of State funds for direct and indirect services) of Subpart C and #121a. 620 (Federal Funds for State Administration) of Subpart F: (1) A list of administrative positions, and a description of duties for each person whose salary is paid in whole or in part with those funds. (2) For each position, the percentage of salary paid with those funds. (3) A description of each administrative activity the SEA will carry out during the next school year with those funds. (4) A description of each direct service and each support service which the SEA will provide during the next school year with those funds, and the activities the State advisory panel will undertake during that period with those funds.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plan	PL94-142	Federal Regulations State Standards	
Contents con't.		F.R. 121a. 149	(b) Local Educational Agency Allocation. Each plan must include: (1) An estimate of the number and percent of local educational agencies in the State which will receive an allocation under this part (other than local educational agencies which submit a consolidated application). (2) An estimate of the number of local educational agencies which will receive an allocation under a consolidated application. (3) An estimate of the number of consolidated applications and the average number of local educational agencies per application, and (4) A description of direct services the SEA will provide under #121a. 360 (Use of LEA allocation for direct services) of Subpart C.
	20 USC 1405; 29 USC 794	F.R. 121a. 150	Nondiscrimination and Employment of Handicapped Individuals. (a) Each plan must include an assurance that the program assisted under Part B of the Act will be operated in compliance with Title 45 of the Code of Federal Regulations Part 84 (Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance). The SEA may incorporate this assurance by reference if it has already been filed with the Department of Health, Education, and Welfare. (b) The assurance under paragraph (a) of this section covers, among other things, the specific requirement on employment of handicapped individuals under section 606 of the Act, which states: "The Secretary shall assure that each recipient of assistance under this Act shall make positive efforts

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plan	PL94-142	Federal Regulations State Standards	
Contents		F.R. 121a. 150	to employ and advance in employment qualified handicapped individuals in programs assisted under this this Act."
	20 USC 1412 (b)	F.R. 121a. 151	Additional Information (If the SEA Provides Direct Services). If an SEA provides free appropriate public education for handicapped children or provides them with direct services, its annual program plan must include the information required under #121a. 226-228; 231 and 235. (All information contained therin relates to local application (content) on the part of the LEA).
		S.S. 341. 33	Content of Plans. In addition to the description of programs and services and needs required in #341.32 of this title (relating to development of plans), each intermediate unit plan shall include the following: (1) A policy for the identification of all school-aged persons in need of special education programs and services. (2) A strategy to provide immediately an appropriate education to any person identified under paragraph (1) of this section above who is receiving no education. (3) A strategy and timetable to develop special education programs and services for those identified under paragraph (1) of this section who are not receiving appropriate special education programs and services. Such strategy shall reflect the following priorities in accordance with the specific needs determined by the school district and the intermediate unit.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plan	PL94-142	Federal Regulations State Standards	
Contents		S.S. 341. 33	(i) Programs and services shall be provided for the more severly handicapped before programs are provided for the less severely handicapped and for the more gifted before the less gifted. (ii) Programs and services shall be developed in accordance with a planned curriculum to provide a continuum of programs and services appropriate for the age and development of the student. (iii) Programs and services shall be developed to provide a continuance of programs and services for appropriate student assignments in accordance with the priority order as provided in #13.11 (d) of this title (relating to program responsibilities).
Effective Period		F.R. 121a. 114	Effective Period of Annual Program Plan. See-XLI ITEM: Time Lines and Timetables (Annual Program Plan)
Organization		S.S. 341.51	Organizational Patterns. The following organizational patterns will be approved by the Department: (a) Regular Programs. Regular programs do not qualify for special education funding, but may meet the needs of certain exceptional persons. Instruction shall emphasize both subject content and development of special skills in accordance with the I.E.P. of the student. (b) Itinerant Programs. Itinerant programs shall be designed as follows: (1) For students enrolled in regular classes who are generally expected to spend 25% of less of their time with an

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plan	PL94-142	Federal Regulations State Standards	
Organization con't.		S.S. 341.51	itinerant special education teacher. The itinerant teacher travels from school to school and instructs students in the development of special skills in accordance with the I.E.P. of the student. (2) For students who have multihandicapping conditions enrolled in a special education class and who are required to spend sup to 25% of their time in supportive instruction in skill development in accordance with the I.E.P. of the student. Instruction is provided on an individual or small-group basis by an itinerant special education teacher who travels from school to school. (c) Resource Rooms. Resource rooms shall be designed for students who are generally expected to spend 50% or less of their time with the special education teacher, whether in individual or in small-group instruction. Instruction shall emphasize development of special skills in accordance with the I.E.P. of the student rather than subject content. For the remainder of their time, students are assigned to regular education programs or to other types of special education programs. (d) Part-time Special Class. Part-time special classes shall be designed for students who are generally expected to spend 50% to 85% of their time with the special education teacher. Instruction shall emphasize both subject content and development of special skills in accordance with the I.E.P. of the student. Up to 10% of the student time shall be spent in related activities as

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Annual Program Plan	PL94-142	Federal Regulations State Standards	
Organization con't.		S.S. 341.51	described under subsection (a) of this section. For the remaining time, students are released to participate in individual work experience, work training, or vocational education programs, while their special education teacher is assigned to instruct a second group of students or to perform other responsibilities. (e) Full-time Special Class. Full-time special classes shall be designed for students who are general expected to spend 85% or more of their time with the special education teacher. Instruction shall emphasize both subject content and development of special skills in accordance with the I.E.P. of the student. The remaining student time shall be spent in related activities, such as art, music, physical education, industrial arts, and home economics, with emphasis on the concept of mainstreaming on an individual or group assignment basis.
Public Participation		F.R. 121a. 120	Public Participation. See IV ITEM: Annual Program Plan (Contents).
		F.R. 121a. 137	Procedures for Consultation. See IV ITEM: Annual Program Plan (Contents).
		F.R. 121a. 280	Public Hearings Before Adopting Annual Program Plan. See XLI ITEM: Time Limits and Timetables (Public Participation in Annual Program Plan).

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Annual Program Plan	PL94-142	Federal Regulations State Standards	
Public Participation	20 USC 1412 (7)	F.R. 121a. 281	Notice. (a) The SEA shall provide notice to the general public of the public hearings. (b) The notice must be in sufficient detail to inform the public about: (1) The purpose and scope of the annual program plan and its relation to Part B of the Education of the Handicapped Act, (2) The availability of the annual program plan, (3) The date, time, and location of each public hearing, (4) The procedures for submitting written comments about the plan, and (5) The timetable for developing the final plan and submitting it to the Commissioner for approval. (c) The notice must be published or announced: (1) In newspapers or other media, or both, with circulation adequate to notify the general public about the hearings, and (2) Enough in advance of the date of the hearings to afford interested parties throughout the State a reasonable opportunity to participate.
	20 USC 1412 (7)	F.R. 121a. 282	Opportunity to Participate: Comment Period. (a) The SEA shall conduct the public hearings at times and places that afford interested parties throughout the State a reasonable opportunity to participate. (b) The plan must be available for comment for a period of at least 30 days following the date of the notice.
	20 USC 1412 (7)	F.R. 121a. 283	Review of Public Comments Before Adopting the Plan. Before adopting its annual pro-

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Annual Program Plan	PL94-142	Federal Regulations State Standards	
Public Participation		F.R. 121a. 283	gram plan, the SEA shall: (a) Review and consder all public comments, and (b) Make any necessary modifications in the plan.
		F.R. 121a. 284	Publication and Availability of Approved Plan. See-XLI ITEM: Time Limits and Timetables (Public Participation in Annual Program Plan)
Submission by State		F.R. 121a. 110	Condition of Assistance. See IV ITEM: Annual Program Plan (Condition of Assistance to State)

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V Applicability of Regulations

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Applicability of Regulations	PL94-142	Federal Regulations State Standards	
Applicability of Regulations	20 USC 1412(1),(6); 1413(a); 1413(a)(4)(B)	F.R. 121a. 2	Applicability to State. Local and Private Agencies. (a) States. This part applies to each State which receives payments under Part B of the Education of the Handicapped Act. (b) Public Agencies. Within the State. The annual program plan is submitted by the SEA on behalf of the State as a whole. Therefore, the provisions of this part apply to all political subdivisions of the State that are involved in the education of handicapped children. These would include: (1) The SEA, (2) LEA's and intermediate educational units, (3) Other State agencies and schools (such as Departments of Mental Health and Welfare and State schools for the deaf or blind), and (4) State correctional facilities. (c) Private Schools and Facilities. Each public agency in the State is responsible for insuring that the rights and protections under this part are given to children referred to or placed in private schools and facilities by that public agency.

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VI Application by Local Agency

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Application by Local Agency	PL94-142	Federal Regulations State Standards	
Annual Program Plan Requirement		F.R. 121a. 144	Hearing on Application. See IV ITEM: Annual Program Plan (Contents).
Approval or Disapproval by SEA	20 USC 1414(b)(1)	F.R. 121a. 193	SEA Approval. Disapproval. (a) Approval. An SEA shall approve an application submitted by an LEA if the SEA determines that the application meets the requirements under #121a. 220-240 (LEA Applications-Contents). However, the SEA may not approve any application until the Commissioner approves its annual prrogram plan for the school year covered by the application. (b) Disapproval. The SEA shall disapprove an application if the SEA determines that the application does not meet a requirement under #121a. 220-240 (see, above). (c) In carrying out its functions under this section, each SEA shall consider any decision resulting from a hearing which is adverse to the LEA involved in the decision.
		F.R. 121a. 360	Use of LEA Allocation for Direct Services. See- I ITEM: Administration (Direct Services by SEA).
Second Priority Children	20 USC 1411 (b)(1)(B), (c)(1)(B), 1414(a)(1)(e)(ii)	F.R. 121a. 324	Application of LEA to Use Funds for the Second Priority. An Lea may use funds provided under Part B of the Act for second priority children, if it provides assurance satisfactory to the SEA in its application (or an amendment to its application):

VI Application by Local Agency

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Application by Local Agency	PL94-142	Federal Regulations State Standards	
Second Priority Children con't.		F.R. 121a. 324	(a) That all first priority children have a free appropriate public education available to them, (b) That the LEA has a system for the identification, location and evaluation of handicapped children, as described in its application; and (c) That whenever a first priority child is identified, located and evaluated, the LEA makes available a free appropriate public education to the child.
Submission by Local Agency		F.R. 121a. 180	Submission of Application. See-III ITEM: Allocations (Application by LEA).
Condition of Assistance to Local Agency		F.R. 121a. 180	Submission of Application. See, above: Submission by Local Agency.
Consolidated Application	20 USC 1414(c)(11)	F.R. 121a. 190	Consolidated Applications. (a) Voluntary applications. LEA's may submit a consolidated application for payments under Part B of the Act. (b) Required applications. An SEA may require LEA's to submit a consolidated application for payments if the SEA determines that an individual application submitted by an LEA will be disapproved because: (1) The agency's entitlement is less than the $7,500 minimum required by section 611(c)(4)(A)(i) of the Act or (2) The agency is unable to establish and maintain programs of sufficient size and scope

VI Application by Local Agency

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Application by Local Agency	PL94-142	Federal Regulations State Standards	
Consolidated Application cont.		F.R. 121a. 190	to effectively meet the educational needs of handicapped children. (c) Size and scope of program. The SEA shall establish standards and procedures for determinations under paragraph (b)(2) of this section.
		F.R. 121a. 191	Payments Under Consolidated Applications. See-III ITEM: Allocations (Consolidated Application).
	20 USC 1414(c)(2)(B)(C)	F.R. 121a. 192	State Regulation of Consolidated Applications. (a) The SEA shall issue regulations with respect to consolidated applications submitted under this part. (b) The SEA's regulations must: (1) Be consistent with section 612(1)-(7) and section 613(a) of the Act, and (2) Provide participating LEA's with joint responsibilities for implementing programs receiving payments under this part. (c) If an intermediate educational unit is required under State law to carry out this part, the joint responsibilities given to LEA's under paragraph (b)(2) of this section do not apply to the administration and disbursement of any payments received by the intermediate unit. Those administrative responsibilities must be carried out exclusively by the intermediate unit.
Content		F.R. 121a. 220	Child Identification. See-XIX ITEM: Identification, Location, Evaluation (Local Application Requirement).

VI Application by Local Agency

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Application by Local Agency	PL94-142	Federal Regulations State Standards	
Content con't.		F.R. 121a. 221	Confidentiality of Personally Identifiable Information. See-XIII ITEM: Evaluation (Protection).
		F.R. 121a. 222	Full Educational Opportunity Goal-Timetable. See-XLI ITEM: Time Limits and Timetables (Full Educational Opportunity Goal).
		F.R. 121a. 223	Facilities, Personnel and Services. See-XXVII ITEM: Personnel Development (Personnel Needs).
		F.R. 121a. 224	Personnel Development. See-XXVII ITEM: Personnel Development (Local Application Requirement).
	20 USC 1414(a)(1)(C)(ii)	F.R. 121a. 225	Priorities. Each application must include priorities which meet the requirements of #121a. 320-324 (Priorities in the Use of Part B Funds).
	20 USC 1414(a)(1)(C)(iii)	F.R. 121a. 226	Parent Involvement. Each application must insure that the LEA makes provision for participation of and consultation with parents or guardians of handicapped children.
		F.R. 121a. 227	Participation in Regular Education Programs. See-XXII ITEM: Least Restrictive Environment (Local Application Requirement-Procedures).
		F.R. 121a. 228	Public Control of Funds. See-1 ITEM: Administration (Local Application Requirement).

VI Application by Local Agency

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Application by Local Agency	PL94-142	Federal Regulations State Standards	
Content con't.	20 USC 1414(a)(2)(B)	F.R. 121a. 229	Excess Cost. Each application must provide assurance satisfactory to the SEA that the LEA uses funds provided under Part B of the Act only for costs which exceed the amount computed under #121a. 184 (Excess costs-computation of amount) and which are directly attributable to the education of handicapped children.
	20 USC 1414(a)(2)(B)	F.R. 121a. 230	Nonsupplanting. (a) Each application must provide assurance satisfactory to the SEA that the LEA uses funds provided under Part B of the Act to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of handicapped children, and in no case to supplant those State and local funds. (b) To meet the requirements in paragraph (a) of this section: (1) The total amount or average per capita amount of State and local school funds budgeted by the LEA for expenditures in the current fiscal year for the education of handicapped children must be at least equal to the total amount or average per capita amount of State and local school funds actually expended for the education of handicapped children in the most recent preceding fiscal year for which the information is available. Allowance may be made for: (i) Decreases in enrollment of handicapped children; and (ii) Unusually large amounts of funds expended

VI Application by Local Agency

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Application by Local Agency	PL94-142	Federal Regulations State Standards	
Content con't		F.R. 121a. 230	for such long-term purposes as the acquisition of equipment and the construction of school facilities, and (2) The LEA must not use Part B funds to displace State or local funds for any particular cost. Note: The nonsupplanting requirement of PL 94-142 differs from other nonsupplanting requirements for other federal funds e.g., ESEA. In the case of the other statutes, the requirement is to not supplant funds that "would" have been expended if Federal funds were not available. In the case of Part B of the Act, however, the wording is to not supplant funds which "have been expended."
	20 USC 1414(a)(2)(C)	F.R. 121a. 231	Comparable Services. (a) Each application must provide assurance satisfactory to the SEA that the LEA meets the requirements of this section. (b) An LEA may not use funds under Part B of the Act to provide services to handicapped children unless the agency uses State and local funds to provide services to those children which, taken as a whole, are at least comparable to services provided to other handicapped children in that LEA. (c) Each LEA shall maintain records which show that the agency meets the requirement in paragraph (b) of this section.
		F.R. 121a. 232	Information: Reports. See-XIII ITEM: Evaluation (Information on Achievement).

VI Application by Local Agency

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Application by Local Agency	PL94-142	Federal Regulations State Standards	
Content	20 USC 1414 (a)(3)(B)	F.R. 121a. 233	Records. Each application must provide that the LEA keeps such records, and affords access to those records, as the SEA may find necessary to insure the correctness and vertification of the information that the LEA furnishes.
	20 USC 1414 (a)(4)	F.R. 121a. 234	Public Participation. (a) Each application must: (1) Provide for making the application and all documents related to the application available to parents and the general public; and (2) Provide that all evaluations and reports are public information. (b) In implementing the requirement in paragraph (a)(1), the LEA shall use methods for public participation within its jurisdiction which are comparable to those required in #121a. 280-284 of this subpart (Publication and Availability of Approved Plans, etc.). However, the LEA is not required to hold public hearings.
		F.R. 121a. 235	Individualized Education Program. See-XXI ITEM: I.E.P. (Local Application Requirement).
		F.R. 121a. 236	Local Policies Consistent with Statute. See-1 ITEM: Administration (Local Application Requirement).
	20 USC 1414 (a)(7)	F.R. 121a. 237	Procedural Safeguards. Each application must provide assurance satisfactory to the SEA that the LEA has procedural safeguards which meet the requirements of #121a. 500-514 of Subpart E (Procedural Safeguards-Due Process Procedures for Parents and Children).

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VI Application by Local Agency

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Application by Local Agency	PL94-142	Federal Regulations State Standards	
Content con't.	20 USC 1414(a)	F.R. 121a. 238	Use of Part B Funds. Each application must describe how the LEA will use the funds under Part B of the Act during the next school year.
	20 USC 1405; 29 USC 794	F.R. 121a. 239	Nondiscrimination and Employment of Handicapped Individuals. (a) Each application must include an assurance that the program assisted under Part B of the Act will be operated in compliance with Title 45 of the Code of Federal Regulations Part 84 (Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance). The LEA may incorporate this assurance by reference if it has already been filed with the Department of Health, Education, and Welfare. (b) The assurance under paragraph (a) of this section covers, among other things, the specific requirement on employment of handicapped individuals under section 606 of the Act, which states: 'The Secretary shall assure that each recipient of assistance under this Act shall make positive efforts to employ and advance in employment qualified handicapped individuals in programs assisted under this Act."
		F.R. 121a. 240	Other Requirements. See-1 ITEM: Administration (Local Application Requirement).
Excess Costs			See-XIV ITEM: Excess Costs.
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V11 Complaints

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V111 Comparable Services

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Comparable Services	PL94-142	Federal Regulations State Standards	
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1X Consent

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Defined		F.R. 121a. 500	Definitions of "Consent," "Evaluation," and "Personally Identifiable." See-X111 ITEM: Evaluation (Handicapped Children-Defined).
Disclosure of Information	20 USC 1412(2)(D); 1417(c)	F.R. 121a. 571	Consent. (a) Parental consent must be obtained before personally identifiable information is: (1) Disclosed to anyone other than officials of participating agencies collecting or using the information under this part, subject to paragraph (b) of this section; or (2) Used for any purpose other than meeting a requirement under this part. (b) An educational agency or institution subject to Part 99 of this title may not release information from education records to participating agencies without parental consent unless authorized to do so under Part 99 of this title. (c) The SEA shall include policies and procedures in its annual program plan which are used in the event that a parent refuses to provide consent under this section.
Initial Placement		F.R. 121a. 504(b)	Prior Notice; Parent Consent. See-X111 ITEM: Evaluation (Handicapped Children-Consent For).
Placement Status During a Proceeding		F.R. 121a. 513	Child's Status During Proceedings. See-XX11 ITEM: Least Restrictive Environment (Placements).

1X Consent

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
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X Confidentiality of Information

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Confidentiality of Information	PL94-142	Federal Regulations State Standards	
Annual Program Plan Requirement		F.R. 121a. 129	Confidentiality of Personally Identifiable Information. See- IV ITEM: Annual Program Plan (Contents).
Definitions	20 USC 1412(2)(D), 1417(c)	F.R. 121a. 560	Definitions. As used in this subpart: "Destruction" means physical destruction or removal of personal identifiers from information is no longer personally identifiable. "Education records" means the type of records covered under the definition of "education records" in Part 99 of this title (the regulations implementing the Family Educational Rights and Privacy Act of 1974). "Participating agency" means any agency or institution which collects, maintains or uses personally identifiable information, or from which information is obtained, under this part.
General Requirements (Access Rights)	20 USC 1412 (2)(D); 1417(c)	F.R. 121a. 562	Access Rights. (a) Each participating agency shall permit parents to inspect and review any education recordes relating to their children which are collected, maintained, or used by the agency under this part. The agency shall comply with a request without unnecessary delay and before any meeting regarding an I.E.P. or hearing relating to the identification, evaluation, or placement of the child, and in no case more than 45 days after the request has been made.

X Confidentiality of Information

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Confidentiality of Information	PL94-142	Federal Regulations State Standards	
(Access Rights) con't.		F.R. 121a. 562	(b) The right to inspect and review education records under this section includes: (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records; (2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; (3) The right to have a representative of the parent inspect and review the records. (c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.
(Amendment of Records)	20 USC 1412(2)(D) 1417(c)	F.R. 121a. 567	Amendment of Records at Parent's Request. (a) A parent who believes that information in education records collected, maintained or used under this part is inaccurate or misleading or violates the privacy or other rights of the child, may request the participating agency which maintains the information to amend the information. (b) The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of

X Confidentiality of Information

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Confidentiality of Information	PL94-142	Federal Regulations State Standards	
(Amendment of Records) cont.		F.R. 121a. 567	the request. (c) If the agency decides to refuse to amend the information in accordance with the request it shall inform the parent of the refusal, and advise the parent of the right to a hearing.
(Consent)		F.R. 121a. 571	Consent. See-IX ITEM: Consent (Consent).
(Definitions)		F.R. 121a. 560	Definitions. See, above (Definitions).
(Fees)	20 USC 1412 (2)(D) 1417(c)	F.R. 121a. 566	Fees. (a) A participating education agency may charge a fee for copies of records which are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records. (b) A participating agency may not charge a fee to search for or to retrieve information under this part.
(Hearing Procedures)		F.R. 121a. 570	Hearing Procedures. See-XVIII ITEM: Hearings (Parents and Children-Confidentiality).
(Lists of Information)	20 USC 1412(2)(D), 1417(c)	F.R. 121a. 565	Lists of Types and Locations of Information. Each participating agency shall provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.
(Notice)	20 USC 1412(2)(D); 1417 (c)	F.R. 121a. 561	Notice to Parents.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Confidentiality of Information	PL94-142	Federal Regulations State Standards	
(Notice) con't.		F.R. 121a. 561	(a) The SEA shall give notice which is adequate to fully inform parents about the requirements of #121a. 128 (Identification, Location and Evaluation of Handicapped Children) of Subpart B, including: (1) A description of the extent to which the notice is given in the native languages of the various population groups in the State. (2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information; (3) A summary of the policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and (4) A description of all of the rights of parents and children regarding this information including the rights under section 438 of the General Education Provisions Act and Part 99 of this title (The Family Educational Rights and Privacy Act of 1974, and implementing regulations). (b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both,

X Confidentiality of Information

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Confidentiality of Information	PL94-142	Federal Regulations State Standards	
(Notice) con't.		F.R. 121a. 561	with circulation adequate to notify parents throughout the State of the activity.
(Opportunity for Hearing)		F.R. 121a. 568	Opportunity for a Hearing. See-XVIII ITEM: Hearings (Parents and Children-Confidentiality).
(Record of Access)	20 USC 1412(2)(D); 1417(c)	F.R. 121a. 563	Record of Access. Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used under this part (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.
(Records-More Than One Child)	20 USC 1412(2)(D); 1417(c)	F.R. 121a. 564	Records On More Than One Child. If any education record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed or that specific information.
(Result of Hearing)		F.R. 121a. 569	Result of Hearing. See-XVIII ITEM: Hearing (Parents and Children-Confidentiality).
(Safeguards)		F.R. 121a. 572	Safeguards. See- XXVII ITEM: Personnel Development (Training- Re: Confidentiality).

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X Confidentiality of Information

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Confidentiality of Information	PL94-142	Federal Regulations State Standards	
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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Count of Children	PL94-142	Federal Regulations State Standards	
Annual Report of Children Served		F.R. 121a. 750	Annual Report of Children Served-Report Requirement. See-XLI ITEM: Time Limits and Timetables (Report of Children Served).
	20 USC 1411(a)(3), 1411(a)(5)(A)(ii); 1418(b)	F.R. 121a. 751	Information Required in Report. (a) In its report, the SEA shall include a table which shows: (1) The number of handicapped children receiving special education and related services on October 1 and on February 1 of that school year, and the average of the numbers for those two dates; (2) The number of those handicapped children within each disability category, as defined in the definition of "handicapped children" in #121a.5 of these regulations; and (3) The number to those handicapped children within each of the following age groups: (i) Three through five; (ii) Six through seventeen; and (iii) Eighteen through twenty-one. (b) A child must be counted as being in the age group corresponding to his or her age on the date of the Count: Occober 1 or February 1, as the case may be. (c) The SEA may not report a child under more than one disability category. (d) If a handicapped child has more than one disability, the SEA shall report that child in accordance with the following procedure:

X1 Count of Children

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Count of Children	PL94-142	Federal Regulations State Standards	
Annual Report of Children Served con't.		F.R. 121a. 751	(1) A child who is both deaf and blind must be reported as "deaf-blind." (2) a child who has more than one disability (other than a deaf-blind child) must be reported as "multihandicapped."
	20 USC 1411(a)(3); 1417(b)	F.R. 121a. 752	Certification. The SEA shall include in its report a certification signed by an authorized official of the agency that the information provided is an accurate and unduplicated count of handicapped children receiving special education and related services on the dates in question.
	20 USC 1411(a)(3), 1417(b)	F.R. 121a. 753	Criteria for Counting Children. (a) The SEA may include gandicapped children in its report who are enrolled in a school or program which is operated or supported by a public agency, and which either: (1) Provides them with both special education and related services; or (2) Provides them only with special education if they do not need related services to assist them in benefitting from that special education. (b) The SEA may not include handicapped children in its report who: (1) Are not enrolled in a school or program operated or supported by a public agency; (2) Are not provided special education that meets State standards; (3) Are not provided with a related service that they need to assist them in benefitting from special education; (4) Are counted by an SEA under section

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X1 Count of Children

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Count of Children	PL94-142	Federal Regulations State Standards	
Annual Report of Children Served con't		F.R. 121a. 753	121 of the ESEA of 1965, as amended; or (5) Are receiving special education funded solely by the Federal Government. However, the State may count children covered under #121a. 186(b) (Excess Cost Requirement). Note: The State may count handicapped children in a Head Start or other preschool program operated or supported by a public agency if those children are provided special education that meets State standards.
		F.R. 121a. 754	Other Responsibilities of SEA See-XLI ITEM: Time Limits and Timetables (Report of Children Served).
Allocations (State Entitlement)		F.R. 121a. 701	State Entitlement: Formula. See-III ITEM: Allocations (State Allocations).
		F.R. 121a. 702	Limitations and Exclusions. See-III ITEM: Allocations (State Allocations).
(LEA Entitlement)		F.R. 121a. 707	LEA Entitlements: Formula. See-III ITEM: Allocations (State Allocations).
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X11 Due Process

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Due Process	PL94-142	Federal Regulations State Standards	
Procedures for Parents and Children		F.R. 121a. 500	Definitions of "Consent" "Evaluation," and "Personally Identifiable." See-XIII ITEM: Evaluation (Handicapped Children-Definition).
	20 USC 1415(a)	F.R. 121a. 501	General Responsibilities of Public Agencies. Each SEA shall insure that each public agency establishes and implements procedural safeguards which meet the requirement of this part relating to procedural safeguards, namely, #121a. 500-514.
	20 USC 1415(b)(1)(A)	F.R. 121a. 502	Opportunity to Examine Records. The parents of handicapped children shall be afforded the opportunity to inspect and review all education records with respect to: (a) The identification, evaluation, and educational placement of the child, and (b) The provision of a free appropriate public education to the child.
		F.R. 121a. 503	Independent Educational Evaluation. See-XIII ITEM: Evaluation (Independent Educational Evaluation).
		F.R. 121a. 504	Prior Notice: Parent Consent See-XIII ITEM: Evaluation (Handicapped Children-Consent For).
		F.R. 121a. 505	Content of Notice. See-XIII ITEM: Evaluation (Handicapped Children-Consent For).
		F.R. 121a. 506	Impartial Due Process Hearing. See-XVIII ITEM: Hearings (Parents and Children).

XII Due Process

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
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		F.R. 121a. 508	Hearing Rights. See-XVIII ITEM: Hearings.
		F.R. 121a. 509	Hearing Decision; Annual See-XVIII ITEM: Hearings.
		F.R. 121a. 510	Administrative Appeal; Impartial Review. See-XVIII ITEM: Hearings.
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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Evaluation	PL94-142	Federal Regulations State Standards	
Advisory Panel Function	20 USC 1413(a)(12)	F.R. 121a. 652	Advisory Panel Functions. The State advisory panel shall (a) Advise the SEA of umnet needs within the State in the education of handicapped children; (b) Comment publicly on the State annual program plan and rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this part; and (c) Assist the State in developing and reporting such information and evaluations as may assist the Commissioner in the performance of his responsibilities under Section 618.
Annual Program Plan Requirements		F.R. 121a. 128	Identification Location. Evaluation of Handicapped Children. See-XIX ITEM: Identification, Location, etc. (Annual Program Plan) and IV ITEM: Annual Program Plan (Contents).
		F.R. 121a. 133	Protection in Evaluation Procedures. See IV ITEM: Annual Program Plan (Contents).
		F.R. 121a. 146	Annual Evaluation. See XLI ITEM: Time Limits and Timetables (Evaluation) and IV Annual Program Plan (Contents).
Education Programs		F.R. 121a. 146	Evaluation-Education Programs. See XLI ITEM: Time Limits and Timetables (Evaluation Educational Programs).

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Evaluation	PL94-142	Federal Regulations State Standards	
Handicapped Children (Consent Required For)	20 USC 1415(b)(1)(C)(D)	F.R. 121a. 504	Prior Notice; Parent Consent (a) Notice. Written notice must be given to parents of a handicapped child a reasonable time before the public agency: (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child, or (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child. (b) Consent. (1) Parental consent must be obtained before: (i) Conducting a preplacement evaluation; and (ii) Initial placement of a handicapped child in a program providing special education and related services. (2) Except for preplacement evaluation and initial placement, consent may not be required as a condition of any benefit to the parent or child. (c) Procedures Where Parent Refuses. (1) Where State law requires parental consent before a handicapped child is evaluated or initially provided special education and related services, State procedures govern the public agency in overriding a parent's refusal to consent. (2)(i) Where there is not State law requiring consent before a handicapped child is evaluated or initially provided special education and related services,

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Evaluation	PL94-142	Federal Regulations State Standards	
Handicapped Children (Consent Required For) con't.		F.R. 121a. 504	the public agency may use the hearing procedures in these regulations (121a. 506-508) to determine if the child may be evaluated or initially provided special education and related services without parental consent. (ii) If the hearing officer unholds the agency, the agency may evaluate or initially provide special education and related services to the child without the parent's consent, subject to the parent's rights under #121a. 510-513 (Appeal). Note. Any changes in a child's special education program after the initial placement, are not subject to parental consent under Part B, but are subject to the prior notice requirement in paragraph (a) and the I.E.P. requirements in Subpart C.
(Consent) (Defined)	20 USC 1415, 1417(c)	F.R. 121a. 500	Definition of "Consent", "Evaluation", and "Personally Identifiable". As used in this part: "Consent" means that: (a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication. (b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) which will be released and to whom; and

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Evaluation	PL94-142	Federal Regulations State Standards	
(Consent) (defined) con't.		F.R. 121a. 500	(c) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. "Evauluation" means procedures to determine whether a child is handicapped and the nature and extent of the special education and related services that the child needs. The term means procedures used selectively with an individual child and does not include basic tests administered to or procedures used with all children in a school, grade, or class. "Personally Identifiable" means that information includes: (a) The name of the child, the child's parent, or other family member; (b) The address of the child; (c) A personal identifier, such as the child's social security number or student number; or (d) A list of personal characteristics or other information which would make it possible to identify the child with reasonable certainty.
(Consent) (Hearings)			See-XVIII ITEM: Hearings.
(Independent Educational Evaluation)	20 USC 1415(b)(1)(A)	F.R. 121a. 503	Independent Educational Evaluation. (a) General. (1) The parents of a handicapped child have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this session. (2) Each public

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Evaluation	PL94-142	Federal Regulations State Standards	
(Independent Educational Evaluation) con't.		F.R. 121a. 503	agency shall provide to parents, on request, information about where an independent educational evaluation may be obtained. (3) For the purposes of this part: (i) "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question. (ii) "Public expense" means that the public agency either pays for the full cost of the evaluation or insures that the evaluation is otherwise provided at not cost to the parent. (b) Parent Right to Evaluation at Public Expense. A parent has the right to an independent educational evaluation at public expense if the parent idsagrees with an evaluation obtained by the public agency. However, the public agency may initiate a hearing to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense. (c) Parent Initiated Evaluations. If the parent obtains an independent educational evaluation at private expense, the results of the evaluation: (1) Must be considered by the public agency in any decision made with respect to the provision of a free appropriate public education to the child, and (2) May be presented as evidence at a

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Evaluation	PL94-142	Federal Regulations State Standards	
(Independent Educational Evaluation) con't.		F.R. 121a. 503	hearing under this subpart regarding that child. (d) Requests for Evaluations by Hearing Officers. If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense. (e) Agency Criteria. Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the public agency uses when it initiates an evaluation.
(Information on Achievement)	20 USC 1414(a)(3)(A)	F.R. 121a. 232	Information-Reports. Each application must provide that the LEA furnished information (which, in the case of reports relating to performance, is in accordance with specific performance criteria developed by the LEA and related to program objectives) as may be necessary to enable the SEA to perform its duties under this part, including information relating to the educational achievement of handicapped children participating in the LEA's programs for handicapped children.
(Notice Required)		F.R. 121a. 504	See, above: Consent Required For.
	20 USC 1415(b)(1)(D)	F.R. 121a. 505	Content of Notice. (a) The notice under 121a. 504 must include: (1) A full ex-

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Evaluation	PL94-142	Federal Regulations State Standards	
(Notice Required) con't.		F.R. 121a. 505	planation of all of the procedural safeguards available to the parents; (2) A description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, and a description of a any options the agency considered and the reasons why those options were rejected; (3) A description of each evaluation procedure, test, record, or report the agency uses as a basis for the proposal or refusal; and (4) A description of any other factors which are relevant to the agency's proposal or refusal. (b) The notice must be: (1) Written in language understandable to the general public, and (2) Provided in the native language of the parent or other mode of communication used by the parent unless it is clearly not feasible to do so. (c) If the native language or other mode of communication of the parent is not a written language, the State or local educational agency shall take steps to insure: (1) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; (2) That the parent understands the content of the notice, and (3) That there is written evidence that the requirements in paragraph (c)(1) and (2) of this section have been met.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Evaluation	PL94-142	Federal Regulations State Standards	
(Protection)		F.R. 121a. 129	Confidentiality of Personally Identifiable Information. See-IV ITEM: Annual Program Plan (Contents).
		F.R. 121a. 133	Protection in Evaluation Procedures. See-IV ITEM: Annual Program Plan (Contents)
	20 USC 1414(a)(1)(B)	F.R. 121a. 221	Confidentiality of Personally Identifiable Information. Each application must include policies and procedures which insure that the criteria for confidentiality of information are met.
	20 USC 1412(5)(C)	F.R. 121a. 530	Protection in Evaluation Procedures. (a) Each SEA shall insure that each public agency establishes and implements procedures which meet the requirements of protection in evaluation procedures. (b) Testing and evaluation materials and procedures used for the purposes of evaluation and placemet of handicapped children must be selected and administered so as not to be racially or culturally discriminating.
	20 USC 1412(5)(C)	F.R. 121a. 531	Preplacement Evaluation. Before any action is taken with respect to the initial placement of a handicapped child in special education programs, a full and individual evaluation of the child's educational needs must be conducted.
	20 USC 1412(5)(C)	F.R. 121a. 532	Evaluation Procedures. State and local educational agencies shall insure, at a

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Evaluation	PL94-142	Federal Regulations State Standards	
(Protection) con't.		F.R. 121a. 532	minimum, that: (a) Tests and other evaluation materials; (1) Are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; (2) Have been validated for the specific purpose for which they are used; and (3) Are administered by trained personnel in conformance with the instructions provided by their producer; (b) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; (c) Tests are selected and administered so as best to ensure that when a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual or speaking skills (except where those skills are the factors which the test purports to measure); (d) No single procedure is used as the sole criterion for determining an appropriate educational program for a child; and (e) The evaluation is made by a multidisciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of suspected disability.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Evaluation	PL94-142	Federal Regulations State Standards	
(Protection) cont.		F.R. 121a. 532	(f) The child is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, comminicative status, and motor abilities. Note. Children who have a speech impairment as their primary handicap may not need a complete battery of assessments.
		F.R. 121a. 533	Placement Procedures. See-XXII ITEM: Least Restrictive Environment (Placement); XXI ITEM: I.E.P. (Placement Procedures).
		F.R. 121a. 534	Reevaluation. See-XXI ITEM: I.E.P. (Reevaluation).
(State Responsibility)		F.R. 121a. 128	Identification, Location, etc. See-XIX ITEM: Identification, Location and Evaluation (Annual Program Plan); and IV ITEM: Annual Program Plan (Contents).
Hearing Aids	20 USC 1412(2)(B)	F.R. 121a. 303	Proper Functioning of Hearing Aids. Each public agency shall insure that the hearing aids worn by deaf and hard of hearing children in school are functioning properly.
Individualized Education Program		F.R. 121a. 146	Annual Evaluation. See-XLI ITEM: Time Limits and Timetables (Evaluation of Educational Programs); and IV ITEM: Annual Program Plan (Contents).

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Evaluation	PL94-142	Federal Regulations State Standards	
Personnel Development		F.R. 121a. 386	Evaluation. See-XXVII ITEM: Personnel Development (Comprehensive System of Personnel Development).
Private School Children Service Needs		F.R. 121a. 453	Determination of Needs, Number of Children, and Types of Services. See-XIX ITEM: Identification, Location and Evaluation (Private School Children).
State Educational Agency Activities		F.R. 121a. 146	Annual Evaluation. See-XLI ITEM: Time Limits and Timetables (I.E.P.)
		F.R. 121a. 601	Monitoring and Evaluation Activities. See-XLI ITEM: Time Limits and Timetables (State Monitoring of Public Agencies).
Training		F.R. 121a. 532	Trained Personnel For Evaluation Materials. See-XXVII ITEM: Personnel Development (Trained Personnel).

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XIV Excess Costs

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Excess Costs	PL94-142	Federal Regulations State Standards	
Computation of Minimum Amount	20 USC 1414 (a)(1)	F.R. 121a. 184	The minimum average amount a local educational agency must spend under 121a. 183 (Meeting the excess cost requirement) for the ecucation of each of its handicapped children is computed as follows: (a) Add all expenditures of the LEA in the preceding school year, except capital outlay and debt service: (1) For elementary school students, if the handicapped child is an elementary school student, or (2) For secondary school students, if the handicapped child is a secondary school student. (b) From this amount subtract the total of the following amounts spent for elementary school students or for secondary students, as the case may be: (1) Amounts the agency spent in the preceding year from funds awarded under Part B of the Act and Titles 1 and VII of the ESEA Act of 1965, and (2) Amounts from State and local funds which the agency spent in the preceding school year for: (i) Programs for handicapped children, (ii) Programs to meet the special educational needs of educationally deprived children, and (iii) Programs of bilingual education for children with limited English-speaking ability. (c) Divide the result under paragraph (b) of this section by the average number of students enrolled in the agency in the preceding school year; (1) In its elementary schools, if the child is an elementary student, or

XIV Excess Costs

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Excess Costs	PL94-142	Federal Regulations State Standards	
Computation of Minimum Amount con't.		F.R. 121a. 184	(2) In its secondary schools, if the handicapped child is a secondary school student. Note: The Federal Regulations give a lengthy working example of how to compute the average minimum amount called for in 121a. 183, using the formula given in 121a. 183. Any individual responsible for making the computations would be well advised to examine the example found on P. 42484 of the Federal Regulations.
		S.S. 341. 71	Special Education Budgets: (a) Preparation. Each intermediate unit shall prepare annually, in conjunction with its component school districts a budget for the operation of special education programs and services. (b) Forms. The budgets shall be prepared on budget forms which identify the costs of intermediate unit special education programs and the excess costs of school districts special education programs. For this purpose, average daily membership shall be calculated and reported as follows: (1) Equivalent Full-Time Average Daily Membership (EFT/ADM) in speech and language itinerant service shall be calculated and reported in accordance with section 2509 of the Public School Code of 1949 (24 P.S. #25-2509). (2) Equivalent Full-Time Average Daily Membership (EFT/ADM) for all other itinerant service shall be four.

XIV Excess Costs

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Excess Costs	PL94-142	Federal Regulations State Standards	
Computation of Minimum Amount con't.		S.S. 341. 71	(3) Equivalent Full-Time Average Daily Membership (EFT/ADM) for all resource rooms shall be six. (4) Equivalent Full-Time Average Daily Membership (EFT/ADM) for part-time and full-time special education classes shall be the number of persons assigned multiplied by the percentage of time in special education. (c) Submission: Prior to funding, each intermediate unit budget shall be submitted to the PDE, Division of Special Education. The Division will review budget submissions to insure that requested program funding is reasonable and consistent with the intermediate unit plan for the operation of special education programs and services. (d) Approval. A budget will be approved when the fund request is reasonable and conforms to the intermediate unit plan for the operation of special education programs. (e) Disapproval. The Secretary of Education may disapprove a budget or a line item in a budget if, after consultation with the Division of Special Education, the Secretary determines that the request for funding is not reasonable or not consistent with the intermediate unit plan for the operation of special education programs and services. (1) Prior to disapproval, appropriate Department personnel will discuss the budget and the plan with the appropriate school district and intermediate unit personnel. (2) If a budget or a line item in a budget is

XlV Excess Costs

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Excess Costs	PL94-142	Federal Regulations State Standards	
Computation of Minimum Amount con't.		S.S. 341. 71	disapproved, the intermediate unit shall be entitled to a notice and a hearing in accordance with the Administrative Agency Law (71 P.S. #1710.1-1710.51) and Pa. Code, Part 11 (relating to general rules of administration and procedure).
Computation (Consolidated Application)	20 USC 1414 (a)(1)	F.R. 121a. 185	The minimum average amount where two or more local educational agencies submit a consolidated application, is the average of the combined under 121a. 184 in those agencies for elementary or secondary school students, as the case may be.
Limitation on Use of Part B Funds	20 USC 1402 (20); 1414(a)(1)	F.R. 121a. 186	The excess costs requirement prevents an LEA from using funds provided under Part B of the Act to pay for all of the costs directly attributable to the education of a handicapped child, subject to the following: The excess cost requirement does not prevent an LEA from using Part B funds to pay for all of the costs directly attributable to the education of a handicapped child in any of the age ranges three, four, five, eighteen, nineteen twenty, or twenty-one, if no local or State funds are available for non-handicapped children in that age range. However, the LEA must comply with the non-supplanting and other requirements of this part in providing the education and services.

XlV Excess Costs

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Excess Costs	PL94-142	Federal Regulations State Standards	
Local Application Requirement	20 USC 1414(a)(2)(B)	F.R. 121a. 229	Each application must provide assurance satisfactory to the State educational agency that control of funds provided under Part B of the Act and title to property acquired with those funds, is in a public agency for the uses and purposes under this part, and that a public agency administers the funds and property.
Not Applicable to State Educational Agency	20 USC 1411(c)(4); 1413(b); 1414(d)	F.R. 121a. 360	Use of Local Educational Agency Allocation for Direct Services. (a) An SEA may not distribute funds to an LEA and shall use those funds to insure the provision of a free appropriate public education to handicapped children residing in the area served by the LEA, if the LEA, in any fiscal year: (1) Is entitle to less than $7,500 for that fiscal year (beginning with fiscal year 1979); (2) Does not submit an application that meets the requirements of these regulations, viz., 121a. 220-121a. 240; (3) Is unable or unwilling to establish and maintain programs of free appropriate public education; (4) Is unable or unwilling to be consolidated with other LEA's in order to establish and maintain those programs; or (5) Has one or more handicapped children who can best be served by a regional or State center designed to meet the needs of those children. (b) In meeting the requirements of paragraph (a) of this section,

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Excess Costs	PL94-142	Federal Regulations State Standards	
Not Applicable to State Educational Agency con't.		F.R. 121a. 360	the State educational agency may provide special education and related services directly, by contract, or through other arrangements. (c) The excess cost requirements under 121a. 182-186 do not apply to the State educational agency.
Requirement	20 USC 1414(a)(1) (a)(2)(B)(1)	F.R. 121a. 182	A local educational agency may only use Funds under Part B of the Act for the excess costs of providing special education and related services for handicapped children.
Requirement (Meeting the Requirement)	20 USC 1402 (20); 1414 (a)(1)	F.R. 121a. 183	(a) An LEA meets the excess cost requirement if it has on the average spent at least the amount determined under 121a. 184 (see above: Computation) for the education of each of its handicapped children. This amount may not include capital outlay or debt service. (b) Each LEA must keep records adequate to show that it has met the excess cost requirement.

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XlV Excess Costs

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Excess Costs	PL94-142	Federal Regulations State Standards	
Computation of Minimum Amount	20 USC 1414 (a)(1)	F.R. 121a. 184	The minimum average amount a local educational agency must spend under 121a. 183 (Meeting the excess cost requirement) for the ecucation of each of its handicapped children is computed as follows: (a) Add all expenditures of the LEA in the preceding school year, except capital outlay and debt service: (1) For elementary school students, if the handicapped child is an elementary school student, or (2) For secondary school students, if the handicapped child is a secondary school student. (b) From this amount subtract the total of the following amounts spent for elementary school students or for secondary students, as the case may be: (1) Amounts the agency spent in the preceding year from funds awarded under Part B of the Act and Titles 1 and Vll of the ESEA Act of 1965, and (2) Amounts from State and local funds which the agency spent in the preceding school year for: (i) Programs for handicapped children, (ii) Programs to meet the special educational needs of educationally deprived children, and (iii) Programs of bilingual education for children with limited English-speaking ability. (c) Divide the result under paragraph (b) of this section by the average number of students enrolled in the agency in the preceding school year; (1) In its elementary schools, if the child is an elementary student, or

XIV Excess Costs

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Excess Costs	PL94-142	Federal Regulations State Standards	
Computation of Minimum Amount con't.		F.R. 121a. 184	(2) In its secondary schools, if the handicapped child is a secondary school student. Note: The Federal Regulations give a lengthy working example of how to compute the average minimum amount called for in 121a. 183, using the formula given in 121a. 183. Any individual responsible for making the computations would be well advised to examine the example found on P. 42484 of the Federal Regulations.
		S.S. 341. 71	Special Education Budgets: (a) Preparation. Each intermediate unit shall prepare annually, in conjunction with its component school districts a budget for the operation of special education programs and services. (b) Forms. The budgets shall be prepared on budget forms which identify the costs of intermediate unit special education programs and the excess costs of school districts special education programs. For this purpose, average daily membership shall be calculated and reported as follows: (1) Equivalent Full-Time Average Daily Membership (EFT/ADM) in speech and language itinerant service shall be calculated and reported in accordance with section 2509 of the Public School Code of 1949 (24 P.S. #25-2509). (2) Equivalent Full-Time Average Daily Membership (EFT/ADM) for all other itinerant service shall be four.

A CONCORDANCE FOR THE IMPLEMENTATION OF
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by Frank A. Ameruoso, Ph.D.

XV Free Appropriate Public Education

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
FAPE	PL94-142	Federal Regulations State Standards	
Priorities con't.	20 USC 1411(b)(1)(B), (b)(2)(B), (c)(2)(A)(ii).	F.R. 121a. 323	Services to Other Children. If an SEA or LEA is providing free appropriate public education to all of its first priority children, that SEA or LEA may use funds provided under Part B of the Act: (a) To provide free appropriate public education to handicapped children who are not receiving any education and who are in the age groups not covered under #121a. 300 (Age Ranges) in that State; or (b) To provide free appropriate public education to second priority children; or (c) Both.
		F.R. 121a. 324	Application of LEA to Use Funds for the Second Priority. See-VI ITEM: Application by Local Agency (Second Priority Children).

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A CONCORDANCE FOR THE IMPLEMENTATION OF
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XV1 Full Educational Opportunity Goal

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Full Educational Opportunity Goal	PL94-142	Federal Regulations State Standards	
Annual Program Plan Requirements		F.R. 121a. 123	Full Educational Opportunity Goal. See-IV ITEM: Annual Program Plan (Contents).
		F.R. 121a. 124	Date Requirement. See-IV ITEM: Annual Program Plan (Contents).
		F.R. 121a. 125	Timetable. See-XLI ITEM: Time Limits and Timetables (Full Educational Opportunity Goal).
		F.R. 121a. 126	Facilities, Personnel and Services. See-XXVII ITEM: Personnel Development (Personnel Needs).
General Requirements	20 USC 1412 (2)(A); 1414(a)(1)(C)	F.R. 121a. 304	Full Educational Opportunity Goal. (a) Each SEA shall insure that each public agency establishes and implements a goal of providing full educational opportunity to all handicapped children in the area served by the public agency. (b) Subject to the priority requirements in these regulations (#121a. 320-324), an SEA or LEA may use Part B funds to provide facilities personnel and services necessary to meet the full educational opportunity goal. Note: The Congress also encouraged the LEA's to include artistic and cultural activities in programs supported under this part.
		F.R. 121a. 306	Non-academic Services. See-XXII ITEM: Least Restrictive Environment (Non-academic Services).

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by Frank A. Ameruoso, Ph.D.

XVl Full Educational Opportunity Goal

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Full Educatipnal Opportunity Goal	PL94-142	Federal Regulations State Standards	
General Requirements con't.		F.R. 121a. 305	Program Options. See-XXII ITEM: Least Restrictive Environment (Program Options).
Local Application Requirements		F.R. 121a. 222	Timetable. See-XLI ITEM: Time Limits and Timetables (Full Educational Opportunity Goal).
		F.R. 121a. 223	Facilities, Personnel and Services. See-XXVII ITEM: Personnel Development (Personnel Needs).

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A CONCORDANCE FOR THE IMPLEMENTATION OF

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by Frank A. Ameruoso, Ph.D.

XVII Handicapped Children

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Handicapped Children	PL94-142	Federal Regulations State Standards	
Defined	20 USC 1401(1)(15)	F.R. 121a. 5	Handicapped Children. (a) As used in this part, the term "handicapped children" means those children evaluated in accordance with #121a. 530-534 (Protection in Evaluation Procedures) as being mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multi-handicapped, or as having specific learning disabilities, who because of those impairments need special education and related services. (b) The terms used in this definition are defined as follows: (1) "Deaf" means a hearing impairment which is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance. (2) "Deaf-blind" means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accomodated in special education programs solely for deaf or blind children. (3) "Hard of hearing" means a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance but which is not included under the definition of "deaf" in this section.

XVII Handicapped Children

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Handicapped Children	PL94-142	Federal Regulations State Standards	
Defined con't.		F.R. 121a. 5	(4) "Mentally retarded" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affects a child's educational performance. (5) "Multi-handicapped" means concomitant impairments (such as mentally retarded-blind, mentally retarded-orthopedically impaired, etc.) the combination of which causes such severe educational problems that they cannot be accomodated in special education programs solely for one of the impairments. The term does not include deaf-blind children. (6) "Orthopedically impaired" means a severe orthopedic impairment which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g. poliomyelitis bone tuberculosis, etc.), and impairments from other causes (e.g. cerebral palsy, amputations, and fractures or burns which cause contractures). (7) "Other health impaired" means limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophillia, epilepsy, lead posioning, leukemia, or

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Handicapped Children	PL94-142	Federal Regulations State Standards	
Defined con't.		F.R. 121a. 5	diabetes, which adversely affects a child's educational performance. (8) "Seriously emotionally disturbed" is defined as follows: (i) The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects educational performance: (A) An inability tolearn which cannot be explained by intellectual, sensory, or health factors; (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers; (C) Inappropriate types of behavior or feelings under normal circumstances; (D) A general pervasive mood of unhappiness or depression; or (E) A tendency to develop physical symptoms or fears associated with personal or school problems. (ii) The term includes children who are schizophrenic or autistic. The term does not include children who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed. (9) 'Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Handicapped Children	PL94-142	Federal Regulations State Standards	
Defined con't.		F.R. 121a. 5	as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, or of environmental, cultural, or economic disadvantage. (10) "Speech impaired" means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, which adversely affects a child's educational performance. (11) "Visually handicapped" means a visual impairment which, even with correction, adversely affects a child's educational performance. The term includes both partially seeing and blind children.
		S.S. 341. 1	Exceptional Persons. The State Standards define exceptional persons as those persons evaluated in accordance with this chapter (341) as being hearing impaired, mentally gifted and talented, mentally retarded, physically handicapped, learning disabled, brain damaged, speech and language impaired, socially and emotionally disturbed, visually impaired, or severely multihandicapped. These terms are further defined as follows: (i) Brain damage. A moderate to severe injury to the brain, as identified by a neurological examination, resulting in

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Handicapped Children	PL94-142	Federal Regulations State Standards	
Defined con't.		S.S. 341. 1	severe behavior and learning disorders. Persons whose behavior and learning disorders are primarily the result of visual, hearing, or motor handicaps, mental retardation emotional factors, or environmental disadvantage are not brain injured. The term brain damage does not include the condition known as minimal brain dysfunction. (ii) Hearing impaired. A hearing loss ranging from mild, that is, hard of hearing, to profound, that is, deaf, which interferes with the development of the communication process and results in failure to achieve full educational potential. A person shall be assigned to a program for the hearing impaired when the evaluation and Individualized Education Program indicate that such a program is appropriate, provided that the evaluation includes a report by an audiologist and otologist. (iii) Learning disability. A deficiency in the acquisition of basic learning skills, including but not limited to, the ability to reason, think, read, write, spell or do mathematical calculations, as identified by an educational and psychological evaluation. Persons who have learning disorders which are primarily the result of hearing, visual, or other handicaps, mental retardation, emotional factors, or environmental disadvantage are not learning disabled. The term learning disability

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Handicapped Children	PL94-142	Federal Regulations State Standards	
Defined con't.		S.S. 341. 1	does not include the possibility that a learning disabled person may also exhibit such conditions as brain damage or minimal brain dysfunction. A person shall be assigned to a program for the learning disabled when the evaluation and Individualized Education Program indicate that such a program is appropriate, provided that the evaluation clearly indicates that the person can demonstrate average or above average intellectual functioning on appropriate intelligence measure. The evaluation shall include an assessment of specific academic strengths and weaknesses. (iv) Mentally gifted. Outstanding intellectual and creative ability the development of which requires special activities or services not ordinarily provided in the regular program. Persons shall be assigned to a program for the gifted when they have an IQ of 130 or higher. A limited number of persons with IQ scores lower than 130 may be admitted to gifted programs when other educational criteria in the profile of the person strongly indicate gifted ability. Note: An IQ score with consideration for a plus or minus five standard error of measurement as measured by an individual psychological test is valid according to the State Standards' definition of IQ. (v) Mentally retarded. Impaired mental development which

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Handicapped Children	PL94-142	Federal Regulations State Standards	
Defined con't.		S.S. 341. 1	adversely affects the educational performance of a person. A mentally retarded person exhibits significantly impaired adaptive behavior in learning, maturation, or social adjustment as a result of subaverage intellectual functioning. The degree of retardation and the level of social and academic functioning, not deviant behavior patterns, shall be the factors in determining the individualized program. A person shall be assigned to a program for the mentally retarded when the evaluation and the Individualized Education Program indicate that such a program is appropriate; provided that no person shall be assigned to a program for the: (A) educable mentally retarded unless the IQ score of that person is lower than 80; (B) trainable mentally retarded unless the IQ score of that person is lower than 55; or (C) severely and profoundly mentally retarded unless the adaptive behavior of that person is so severely impaired that education programming is oriented to behaviors which may be considered absolutely basic to higher levels of skilled performance-individuals with an IQ score lower than 30 may be considered for these programs and shall be evaluated by a physician prior to assignment. (vi) Physically handicapped. Orthopedic or other health impairments of sufficient magnitude to limit the classroom accomodation and educational performance of a person. A per-

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Handicapped Children	PL94-142	Federal Regulations State Standards	
Defined con't.		S.S. 341. 1	son shall be assigned to a program for the physically handicapped when the evaluation and the Individualized Education Program indicate that such a program is appropriate; provided that the evaluation includes reports from a physician and a certified public school psychologist. (vii) Severely multihandicapped. Persons who are diagnosed as having two or more of the following severe handicapping conditions required for assignment to approved private schools under #171.23 of this title (relating to application for approved private school status): (A) Blind - A visual handicap of a severe degree. Those persons in whom there is visual acuity of 20/200 or less in the better eye with correcting glasses or a peripheral field so contracted that the widest diameter of such field subtends an angular distance no greater than 20 degrees. (B) Brain Damage - Those persons who manifest severe behavior and learning disorders resulting from a severe insult to the brain as identified by a neurological examination. (C) Cerebral palsy - Those persons with severe bilateral, symmeterical, nonprogressive paralysis resulting from developmental defects in the brain or trauma at birth who cannot carry on independently the normal activities of daily living.

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Handicapped Children	PL94-142	Federal Regulations State Standards	
Defined con't.		S.S. 341. 1	(D) Deaf - A hearing handicap of a severe degree. Those persons in whom the sense of hearing is nonfunctional for the ordinary purposes of life. This includes the congenitally and adventitiously deaf. The following represents hearing loss as defined by audiometer measurements: Severe hearing loss-60db to 90db; and Deaf-90db or more in both ears. (E) Emotional disturbance - Those persons who manifest a severe major affective psychosis which is characterized by a single disorder of mood, either extreme elation or depression, that dominates the mental life of the person and is responsible for whatever loss of contact they may have with their environment. (F) Muscular dystrophy - Those persons who manifest a severe wasting away and atrophy of the muscles whereby they become nonambulatory, lose muscle power, and are unable to participate in normal activities of daily living. (G) Severely mentally retarded - Those persons who adaptive behavior is so severely impaired that educational programming is directed to behaviors that require closely supervised simple self-help and very simple work skills requiring full dependence upon others. This term is used to describe the degree of mental retardation present when intelligence testing is lower than an IQ of 25 as measured on individual psychological tests with

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Handicapped Children	PL94-142	Federal Regulations State Standards	
Defined con't.		S.S. 341. 1	no consideration of the standard error of measurement permitted. Those with such adaptive behavior and measured mental ability shall be considered for these programs and shall be evaluated by a physician prior to assignment. (viii) Socially and emotionally disturbed. A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree. an inability to learn which cannot be explained by intellectual, sensory, or health factors, an inability to build or maintain satisfactory interpersonal relationships with peers and teachers, inappropriate types of behavior or feelings; a general pervasive mood of unhappiness or depression, or a tendency to develop physical symptoms, pains, or fears associated with personal or school problems. A person shall be assigned to a program for the socially and emotionallly disturbed when the evaluation and Individualized Education Program indicate that such a program is appropriate; provided that the evaluation includes reports from a board certified or approved psychiatrist. No person shall be assigned to a program for the socially and emotionally disturbed for disciplinary reasons alone. Socially and emotionally disturbed children shall be psychiatrically reevaluated every two years. (ix) Speech and Language Impaired. Communication disorders of impaired language, voice, fluency or articulation to such a degree that academic achievement is in-

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Handicapped Children	PL94-142	Federal Regulations State Standards	
Defined con't.		S.S. 341. 1	variably affected and that the condition is significantly handicapping to the affected person. A person shall be assigned to a program for the speech and language impaired when the screening by a speech clinician and the Individualized Education Program indicate that such a program is appropriate. Where appropriate, an evaluation by a certified public school psychologist or physician shall be performed. (x) Talented - Outstanding talent as identified by a team of educators and professionals competent in the areas of art, music, dance, photographic arts, or theater the development of which requires special activities or services not ordinarily provided in the regular program. A person identified as talented shall be eligible to attend the Governor's School for the Arts. Note: There is no mention of the assignment in this particular instance being contingent on an I.E.P. (xi) Visually impaired - A visual impairment which adversely affects the educational performance of the person. A person shall be assigned to a program for the visually impaired when the evaluation and Individualized Education Program indicate that such a program is appropriate, provided that the evaluation includes an examination by an eye specialist and a written report of the nature and degree of the visual impairment.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Handicapped Children	PL94-142	Federal Regulations State Standards	
Rights			See the following Major Divisions for a complete profile of the Rights of Handicapped Children: X ITEM: Confidentiality XII ITEM: Due Process XIII ITEM: Evaluation XV ITEM: FAPE XVIII ITEM: Hearing XIX ITEM: Identification; Location; Evaluation. XXI ITEM. I.E.P. XXII ITEM: LRE XXVI ITEM: Notice XXX ITEM: Private School Children XXXVI ITEM: Special Education XXXIV ITEM: Related Services

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Hearings	PL94-142	Federal Regulations State Standards	
Disapproval of Annual Program Plan	20 USC 1413(c)	F.R. 121a. 113	Approval; Disapproval. See-IV ITEM: Annual Program Plan (Approval; Disapproval).
Disapproval of Local Application	20 USC 1414(b)(2)	F.R. 121a. 194	Withholding. (a) If an SEA, after giving reasonable notice and an opportunity for a hearing to an LEA, decides that the LEA in the administration of an application approved by the SEA has failed to comply with any requirement in the application, the SEA, after giving notice to the LEA, shall: (1) Make no further payments to the LEA until the SEA is satisfied that there is no longer any failure to comply with the requirement. or (2) Consider its decision in its review of any application made by the LEA; (3) Or both. (b) Any LEA receiving a notice from a SEA under paragraph (a) of this section is subject to the public notice provision in 121a. 592.
Office of Education Procedures	20 USC 1232 c(c), 1413(a)(9)(B); 1413(c), 1416	F.R. 121a. 580	Opportunity for a Hearing. The Commissioner gives a SEA reasonable notice and an opportunity for a hearing before taking any of the following actions: (a) Disapproval of a State's annual program plan. (b) Withholding payments from a State. (c) Waiving the requirement regarding supplementing and supplanting with Part B Funds of the Act (see below-121a. 589).

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Hearings	PL94-142	Federal Regulations State Standards	
Office of Education Procedures con't.	20 USC 1232c(c); 1413(a)(9)(B); 1413(c); 1416	F.R. 121a. 581	Hearing Panel. The Commissioner appoints a Hearing Panel consisting of not less than three persons to conduct any hearing.
	20 USC 1232c(c), 1413(a)(9)(B), 1413(c), 1416	F.R. 121a. 582	Hearing Procedures. (a)(1) If the Hearing Panel determines that oral testimony would not materially assist the resolution of disputed facts, the Panel shall give each party an opportunity for presenting the case: (i) In whole or in part in writing, or (ii) In an informal conference before the Hearing Panel. (2) The Hearing Panel shall give each party: (i) Notice of the issues to be considered (if this notice has not already been given), and (ii) An opportunity to be represented by counsel. (b) If the Hearing Panel determines that oral testimony would materially assist the resolution of disputed facts, the Panel shall give each party, in addition to the requirements under paragraph (a)(2) of this section: (1) An opportunity to obtain a record of the proceedings; (2) An opportunity to present witnesses on the party's behalf; and (3) An opportunity to cross-examine witnesses either orally or with written questions.
	20 USC 1232c(c); 1413(a)(9)(B), 1413(c), 1416	F.R. 121a. 583	Initial Decision; Final Decision. See XII ITEM: Time Limits and Timetables (Hearing Decisions).

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Hearings	PL94-142	Federal Regulations State Standards	
Office of Education Procedures con't.	20 USC 1411(c)(3); 1413 (a)(9)(B)	F.R. 121a. 589	Waiver of Requirement Regarding Supplementing and Supplanting with Part B Funds. (a) Under sections 613 (a) (9) (B) (ii) of the Act, State and local educational agencies must insure that Federal Funds provided under Part B of the Act are used to supplement the level of State and local funds expended for the education of handicapped children, and in no case to supplant those State and local funds. Beginning with funds appropriated for fiscal year 1979 and for each following fiscal year, the nonsupplanting requirement only applies to funds allocated to local educational agencies. (b) If the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Commissioner may waive in part the requirement under sections 613 (a)(9)(B) and 614 (a)(2)(B) (ii) of the Act if the Commissioner concurs with the evidence provided by the State. (c) If a State wishes to request a waiver, it must inform the Commissioner in writing. The Commissioner then provides the State with a finance and membership report form which provides the basis for the request. (d) In its request for a waiver, the State shall include the results of a special study made by the State to obtain evidence of the availability of a free appropriate public education to all handicapped children. The

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Hearings	PL94-142	Federal Regulations State Standards	
Office of Education Procedures con't.		F.R. 121a. 589	special study must include statements by a representative sample of organizations which deal with handicapped children, and parents and teachers of the same, relating to the following areas: (1) The adequacy and comprehensiveness of the State's system for locating, identifying and evaluating handicapped children, and (2) The cost to parents, if any, for education for children enrolled in public and private residential schools and institutions, and (3) The adequacy of the State's due process procedures. (e) In its request for a waiver, the State shall include finance data relating to the availability of a free appropriate public education for all handicapped children, including: (1) The total current expenditures for regular education programs and special education programs by function and by source of funds (State, local and Federal) for the previous school year, and (2) The full-time equivalent membership of students enrolled in regular programs and in special programs in the previous school year. (f) The Commissioner considers the information which the State provides under paragraph (d) and (e) of this section, along with any additional information he may request, or obtain through on-site reviews of the State's education programs and records, to determine if all children have

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Hearings	PL94-142	Federal Regulations State Standards	
Office of Education Procedures con't.		F.R. 121a. 589	available to them a free appropriate public education, and if so, the extent of the waiver. (g) The State may request a hearing with regard to any final action by the Commissioner under this section.
	20 USC 1416(a)	F.R. 121a. 590	Withholding Payments. (a) The Commissioner may make the following findings only after reasonable notice and an opportunity for a hearing to the SEA involved (and to any LEA affected by any failure described in paragraph (a)(2) of this section): (1) That there has been a failure to comply substantially with the provisions of section 612 and 613 of the Act, or (2) That in the administration of the annual program plan there is a failure to comply with any provision of this part or with any requirement in the application of an LEA under the annual program plan. (b) After making either of the findings in paragraph (a) of this section, the Commissioner: (1) Shall, after notifying the SEA, withhold further payments to the State under the Federal programs referred to which are within his jurisdiction, to the extent that funds under those programs are available for the provision of assistance for the education of handicapped children. (c) If the Commissioner withholds payments under paragraph (b) of this section he may determine:

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Hearings	PL94-142	Federal Regulations State Standards	
Office of Education Procedures con't.		F.R. 121a. 590	(1) That withholding is limited to programs or projects under the annual program plan, or portions of it, affected by the failure, or (2) That the SEA must not make further payments under Part B of the Act, to specified LEA's affected by the failure.
	20 USC 1416(a)	F.R. 121a. 591	Reinstating Payments. Until the Commissioner is satisfied that there is no longer any failure to comply with the provisions of this part, (a) No further payments shall be made to the State under this part or under the Federal programs specified in section 613(a) (2) of the Act which are within his jurisdiction to the extent that funds under those programs are available for the provision of assistance for the education of handicapped children, or (b) Payments by the SEA under this part shall be limited to LEA's whose actions did not cause or were not involved in the failure.
	20 USC 1416(a)	F.R. 121a. 592	Public Notice by State and Local Educational Agencies. Any SEA and LEA which receives a notice shall by means of a public notice, take any necessary measures to inform the public within the agency's jurisdiction of the pendency of the action.
	20 USC 1416(b)	F.R. 121a. 593	Judicial Review of Commissioner's Final Action on Annual Program Plan. If any State is dissatisfied with the Commissioner's final action with respect to its annual program plan, the State may under section

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Hearings	PL94-142	Federal Regulations State Standards	
Office of Education Procedures con't.		F.R. 121a. 593	616(b) of the Act, within sixty days after notice of the action, file a petition for the review of that action with the United States Court of Appeals for the circuit in which the State is located.
Parents & Children (Identification Evaluation, Placement)	20 USC 1416(b)(2)	F.R. 121a. 506	Impartial Due Process Hearing. (a) A parent or a public educational agency may initiate a hearing on any of the matters described in 121a. 504 (Parent Consent; prior notice). (b) The hearing must be conducted by the SEA or the public agency directly responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the SEA. (c) The public agency shall inform the parent of any free or low-cost legal and other relevant services available in the area if: (1) The parent requests the information; or (2) The parent or the agency initiates a hearing under this section. Note: Many States have pointed to the success of using mediation as an intervening step prior to conducting a formal due provess hearing. Although the process of mediation is not required by the statute or these regulations, the State of Pennsylvania has resorted to what is called a "Pre-hearing Conference" to remediate difficulties prior to formal hearings.

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Hearings	PL94-142	Federal Regulations State Standards	
Parents & Children (Identification Evaluation, Placement) con't.	20 USC 1414(b)(2)	F.R. 121a. 507	Impartial Hearing Officer. (a) A hearing may not be conducted: (1) By a person who is an employee of a public agency which is involved in the education or care of the child, or (2) By any person having a personal or professional interest which would conflict with his or her objectivity in the hearing. (b) A person who otherwise qualifies to conduct a hearing under paragraph (a) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer. (c) Each public agency shall keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.
	20 USC 1415(d)	F.R. 121a. 508	Hearing Rights. (a) Any party to a hearing has the right to: (1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children; (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses; (3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing; (4) Obtain a written or electronic verbatim record of the hearing, (5) Obtain written findings of fact and decisions.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Hearings	PL94-142	Federal Regulations State Standards	
Parents & Children (Identification Evaluation, Placement) con't.		F.R. 121a. 508	(The public agency shall transmit those findings and decisions, after deleting any personally indentifiable information, to the State Advisory panel established under Subpart F). (b) Parents involved in hearings must be given the right to: (1) Have the child who is the subject of the hearing present; and (2) Open the hearing to the public.
	20 USC 1415(c)	F.R. 121a. 509	Hearing Decision: Appeal. A decision made in a hearing conducted under this subpart is final, unless a party to the hearing appeals the decision.
	20 USC 1415(c)(d) H. Rep. No. 94-664 at p. 49	F.R. 121a. 510	Administrative Appeal; Impartial Review. (a) If the hearing is conducted by a public agency other than the State educational agency, any party aggrieved by the findings and decision in the hearing may appeal to the SEA. (b) If there is an appeal, the SEA shall conduct an impartial review of the hearing. The official conducting the review shall: (1) Examine the entire hearing record; (2) Insure that the procedures at the hearing were consistent with the requirements of due process; (3) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in 121a. 508 (Hearing Rights) apply, (4) Afford the parties an opportunity for oral or written argument, or both, at the

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Hearings	PL94-142	Federal Regulations State Standards	
Parents & Children (Identification Evaluation, Placement) con't.		F.R. 121a. 510	discretion of the reviewing official; (5) Make an independent decision on completion of the review, and (6) Give a copy of written findings and the decision to the parties. (c) The decision made by the reviewing official is final, unless a party brings a civil action. Note: The SEA may conduct its review either directly or through another State agency acting on its behalf. However, the SEA remains responsible for the final decision on the review. Moreover, all parties have the right to continue to be represented by counsel at the State administrative review level.
	20 USC 1415	F.R. 121a. 511	Civil Action. Any party aggrieved by the findings and decision made in a hearing who does not have the right to appeal under 121a. 510 (Administrative appeal), has the right to bring a civil action under section 615(e)(2) of the Act.
		F.R. 121a. 512	Timelines and Convenience of Hearings and Reviews. See-XLI ITEM: Time Limits and Timetables (Hearing Decisions).
		F.R. 121a. 513	Child's Status During Proceedings. See-XXII ITEM: Least Restrictive Environment (Placements).
		F.R. 121a. 514	Surrogate Parents. See- XL ITEM: Surrogate Parents (Duty of Public Agency to Assign).

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Hearings	PL94-142	Federal Regulations State Standards	
Parents & Children (Confidentiality of Information)	20 USC 1412(2)(D), 1417(c)	F.R. 121a. 568	Opportunity for a Hearing. The agency shall, on request, provide an opportunity for a hearing to challenge information in education records to insure that it is not inaccurate, misleading, or otherwise in violation of theprivacy or other rights of the child.
	20 USC 1412(2)(D); 1417(c)	F.R. 121a. 569	Result of Hearing. (a) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing. (b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement connecting on the information or setting forth any reasons for disagreeing with the decision of the agency. (c) Any explanation placed in the records of the child under this section must. (1) Be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency, and (2) If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

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Hearings	PL94-142	Federal Regulations State Standards	
Parents & Children (Confidentiality of Information) con't.	20 USC 1412(2)(D); 1417(c)	F.R. 121a. 570	Hearing Procedures. A hearing must be conducted according to the procedures under #99.22 of this title.
Parents & Children (I.E.P. and Hearings)		S.S. 341. 18	Relation to Hearing. (a) The Individualized Education Program is an education program developed jointly by the parents and school-personnel. The I.E.P. may be revised periodically. If a change in educational status, special education program or related services provided to the student is to be recommended by the LEA as a revision of the I.E.P., the provisions of #341. 16 of this title (relating to I.E.P. Conference) are to be followed, and subsequent notice and right to a hearing is to be provided. A parent may request a reevaluation of the student's identification and assignment annually. (b) If a hearing is requested, the hearing shall be held to determine the specific kinds of programs and services appropriate for the person, based on the evaluation and any subsequent reevaluation that may have been conducted. The hearing officer shall, after the hearing, issue an opinion and order defining the assignment, program, and services in such specificity as

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Hearings	PL94-142	Federal Regulations State Standards	
Parents & Children (I.E.P. and Hearings) con't.		S.S. 341. 18	the hearing officer seems necessary. An I.E.P. document shall then be developed jointly, in conformity with the decision of the hearing officer, by the parents, school personnel, and, where appropriate, the person in order to supply why component of the I.E.P. not noted, ruled upon, or recommended by the hearing officer in the decision of the hearing officer. The conference shall be scheduled within ten days after the decision has been rendered.
Public Hearings Before Adopting Annual Program Plan		F.R. 280	Public Hearings Before Adopting an Annual Program Plan. See-XLI ITEM: Time Limits and Timetables (Public Participation in Annual Program Plan).
		F.R. 121a. 281	Notice. See-IV ITEM: Annual Program Plan (Public Participation in Annual Program Plan).
		F.R. 121a. 282	Opportunity to Participate; Comment Period. See-IV ITEM: Annual Program Plan (Public Participation in Annual Program Plan).
		F.R. 121a. 283	Review of Public Comments Before Adopting Plan. See-IV ITEM: Annual Program Plan (Public Participation in Annual Program Plan).
		F.R. 121a. 284	Publication and Availability of Approved Plan. See-XLI ITEM: Time Limits and Timetables (Public Participation in Annual Program Plan).

XVIII Hearings

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Hearings	PL94-142	Federal Regulations State Standards	
Withholding Payments		F.R. 121a. 590	Withholding Payments. See, above (Office of Education Procedures).

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XIX Identification, Location, Evaluation

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Identification Location, Eval.	PL94-142	Federal Regulations State Standards	
Annual Program Plan Requirement	20 USC 1412(2)(C)	F.R. 121a. 128	Identification, Location and Evaluation of Handicapped Children. (a) General requirement. Each annual program plan must include in detail the policies and procedures which the State will undertake or has undertaken to insure that: (1) All children who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located and evaluated; and (2) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving the same. (b) Information. Each annual program plan must: (1) Designate the State agency (if other than the SEA) responsible for coordinating the planning and implementation of the policies and procedures under paragraph(a) of this section; (2) Name each agency that participates in the planning and implementation and describe the nature and extent of its participation; (3) Describe the extent to which: (i) The activities described in paragraph(a) of this section have been achieved under the current annual program plan, and (ii) The resources named for these activities in that plan have been used; (4) Describe each type of activity to be carried

XIX Identification, Location, Evaluation

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Identification Location, Eval.	PL94-142	Federal Regulations State Standards	
Annual Program Plan Requirement con't.		F.R. 121a. 128	out during the next school year, including the role of the agency named under paragraph (b)(1) of this section, timelines for completing those activities, resources that will be used, and expected outcomes; (5) Describe how the policies and procedures under paragraph (a) of this section will be monitored to insure that the SEA obtains: (i) The number of handicapped children within each disability category that have been identified, located and evaluated, and (ii) Information adequate to evaluate the effectiveness of those policies and procedures; and (6) Describe the method the State uses to determine which children are currently receiving special education and related services and which children are not receiving the same. Note: All the information gleaned from identification, location and evaluation is subject to confidentiality requirement. See-X-ITEM: Confidentiality of Information.
Local Application Requirement	20 USC 1414(a)(1)(A)	F.R. 121a. 220	Child Identification. Each application must include procedures which insure that all children residing within the jurisdiction of the LEA who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated, including a practical method of determining which children are currently receiving needed special education and related services and which child-

XIX Identification, Location, Evaluation

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Identification Location, Eval.	PL94-142	Federal Regulations State Standards	
Local Application Requirement con't.		F.R. 121a. 220	ren are not currently receiving the same. Note: The LEA is responsible for insuring that all handicapped children within its jurisdiction are identified, etc., and all information is subject to confidentiality.
		S.S. 341. 12	School District Identification (a) Policy. Each school district shall adopt a policy for the identification of school-aged persons who may be in need of special education programs or services. (b) Coordination. The policy shall be coordinated with the intermediate unit. (c) Group screening. The policy shall refer to those group screening instruments which may be used as the basis for referral for evaluation. A group screening instrument is a basic test administered to or a procedure used with all children in a school, for example achievement tests administered to all students in a school or to all students of a certain grade level, speech and language screening instruments, and visual and hearing tests administered in accordance with Article 14 of the Public School Code of 1949 (24 P.S. #1401-14-1422). (d) Referrals. The policy shall include a system by which persons who may be in need of special education are referred by parents, teachers, school nurses, and other professional employees for evaluation. At the same time, the parent shall be informed in

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Identification, Location, Eval.	PL94-142	Federal Regulations State Standards	
Local Application Requirement con't.		S.S. 341. 12	accordance with subsection (c) of this section that the person has been referred for evaluation. (e) Notice to parents. The parents of any person referred for evaluation shall be informed in writing: (1) that the person has been referred for evaluation; (2) of the basis upon which the referral was made, (3) that the parent has the right to inspect and review all relevant school records, (4) of the procedures and specific types of tests which will be used in the evaluation and the approximate dates of such procedures; (5) of the right of the parents to meet with a public school psychologist to discuss the referral and proposed evaluation procedures, (6) of the right of the parents to object to the evaluation and request a hearing in accordance with #13.32 of this title (relating to school district initiated due process procedure). (7) of the right of the parents to give or whthhold their consent to the evaluation. (f) Conference. The notice required by subsection (e) of this section may be given to the parents at a conference. Note According to the definition in the State Standards, Notice means a written notice in the language or mode of communication normally used by the person to whom the notice is being given. S.S. 341. 1.

XlXIdentification, Location, Evaluation

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Identification Location, Eval.	PL94-142	Federal Regulations State Standards	
Local Application Requirement con't.		S.S. 341. 11	Parent Initiated Identification. (a) General rule. Any parent who believes that his child is exceptional and is not receiving appropriate special education programming may request, in writing, an evaluation of the child. (b) Conference. A conference shall be scheduled within ten days of the receipt of the written request. The conference shall include, but shall not be limited to the parent, the teacher of the person, and a supervisor of special education or principal. Any person the parent wishes to invite may attend. Prior to the conference, the school district shall prepare written evidence supporting the appropriateness of the present program of the person or a recommendation for a change in assignment provided that no such recommendation is made until after an evaluation of the person has been performed in accordance with this chapter. See: S.S. 341. 13. At the conference, every effort shall be made to reach an amicable agreement, keeping in mind the best interest of the individual. If a change in assignment is recommended, and I.E.P. shall be developed at the conference. (c) Hearing. Upon conclusion of the conference, the parent, if dissatisfied with the results of the conference may request a hearing. The hearing procedures shall be in accordance with #13.32(8)-(23) of this title (relating to school district

X.X Identification, Location, Evaluation

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Identification Location, Eval.	PL94-142	Federal Regulations State Standards	
Local Application Requirement con't		S.S. 341. 11	initiated due process procedures).
		S.S. 341. 13	Evaluation. (a) General rule. An evaluation must be conducted in accordance with this section prior to the assignment of any person to a special education program or service or prior to the denial of assignment if the parent requests assignment. A person may, however, be assigned to itinerant speech and language service in accordance with subsection (g)(2) of this section after identification in accordance with #341.12 (c) of this title (relating to school district identification). In each instance, except for speech and language impaired, an individual psychological examination shall be administered by a certified public school psychologist prior to assignment to a special education program. For speech and language impaired, a psychological evaluation may be administered by a certified public school psychologist. (b) Individualized Education Program. An evaluation requires the the analysis and investigation necessary to develop an I.E,P. appropriate for the person as required by #341.15 of this title (relating to I.E.P.). There shall be no change in educational status until the I.E.P. has been developed. (c) Scope. The nature of the individual behavioral and learning characteristics of the person thought to be exceptional shall

XIX Identification, Location, Evaluation

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Identification, Location, Evaluation	PL94-142	Federal Regulations State Standards	
Local Application Requirement con't.		S.S. 341. 13	determine the psychological, educational, and other assessment services to be used in the evaluation and the uniqueness in procedures or protocols which may be used; provided that persons thought to have a specific exceptionality shall be evaluated in accordance with the minimum requirements for that exceptionality as provided in #341. 1 of this title (relating to definitions). (d) Tests. Tests and similar evaluation materials shall be: (1) administered in the native language or made of communication of the child, unless it is clearly not feasible to do so; (2) selected and administered so that the test results accurately reflect the person's aptitude; achievement level, or whatever other factor the test purports to measure rather than the person's impaired sensory, manual, or speaking skills except where such skills are the factors which the test purports to measure; (3) professionally validated for the specific purpose for which there are to be used; (4) administered by certified professional employees in accordance with the instructions provided by the producer of the test and sound professional practice, and (5) selected and administered to assess specific areas of educational need and not merely a single general intelligence quotient.

XIX Identification, Location, Evaluation

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Identification Location, Evaluation	PL94-142	Federal Regulations State Standards	
Local Application Requirement con't.		S.S. 341. 13	(e) Other information. Information from sources other than ability or achievement tests, including information from the parents concerning the physical condition, socio-cultural background, and adaptive behavior in home and school of the person, shall be considered in recommending assignments. No one test or type of test shall be used as the sole criterion for development of the I.E.P. (f) Outside evaluation. Reports and evaluations submitted by the person or parent shall be given full consideration by the school district in recommending assignments. No one test or type of test shall be used as the sole criterion for development of the I.E.P. (g) Team. All data collected under this section and the relevant school record of the person shall be reviewed and interpreted by a public school psychologist, the present teacher of the person, and a supervisor of special education or a school administrator or another person knowledgeable about the program and service options which may be appropriate for the person. (1) If the review and interprtation results in a conclusion that the person is not exceptional, the parent shall be so notified in writing. The notice shall inform the parent of his right to. (i) review all data collected on the child; (ii) request a program placement conference in accordance with #13.32 of this title (relating

XIX Identification, Location, Evaluation

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Identification Location Evaluation	PL94-142	Federal Regulations State Standards	
Local Application Requirement con't.		S.S. 341. 13	to school district initiated due process procedures), and (iii) request a hearing on the recommendation in accordance with #13.32 of this title (relating to school district initiated due process procedures). (2) If the review and interpretation result in a recommendation to develop an I.E.P., the parent shall be notified by letter that the school district: (i) has identified the person as exceptional, (ii) is recommending special education placement; and (iii) shall arrange conference for parents to participate in the development of the I.E.P.
Private School Children	20 USC 1413(a)(4)(A)	F.R. 121a. 453	Determination of needs, number of children, and types of services. The needs of private school handicapped children, the number of them who will participate under this part, and the types of special education and related services which the LEA will provide for them must be determined after consultation with persons knowledgeable of the needs of these children on a basis comparable to that used in providing for the participation under this part of handicapped children enrolled in public schools.

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XX Indian Children

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Indian Children	PL94-142	Federal Regulations State Standards	
Application From Secretary of Interior	20 USC 1411(f)	F.R. 121a. 260	Submission of Annual Application; Approval. In order to receive payments under this part, the Secretary of the Interior shall submit an annual application which: (a) Meets applicable requirements of section 614(a) of the Act; (b) Includes monitoring procedures; and (c) Includes other material as agreed to by the Commissioner and the Secretary of the Interior.
	20 USC 1411(f)	F.R. 121a. 261	Public Participation. In the development of the application for the Department of the Interior, the Secretary of the Interior shall provide for public participation.
	20 USC 1411(f)	F.R. 121a. 262	Use of Part B Funds. (a) The Department of the Interior may use five percent of its payments in any fiscal year, or $200,000 whichever is greater, for administrative costs in carrying out the provisions of this Part. (b) The remainder of the payments to the Secretary of the Interior in any fiscal year must be used in accordance with the priorities under #121a. 320-324 (Priorities in the Use of Part B Funds).
	20 USC 1411(f)(2)	F.R. 121a. 263	Applicable Regulations. The Secretary of the Interior shall comply with the requirements under Subparts C,E, and F.

XX Indian Children

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Indian Children	PL94-142	Federal Regulations State Standards	
Count		F.R. 121a. 753	Annual Report of Children Served-Criteria for Counting Children. See-XI ITEM: Count of Children (Annual Report of Children Served).
Payments to Secretary of Interior		F.R. 121a. 709	Payments to Secretary of Interior. See-III ITEM: Allocations (Interior Department-Indian Children).

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XXI Individualized Education Program

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
E.P.	PL94-142	Federal Regulations State Standards	
ccountability	20 USC 1412(2)(B); 1414(a) (5),(6)	F.R. 121a. 349	No agency is held accountable if child does not achieve growth projected in annual goals and objectives.
		S.S. 341.15(7)	Objective criteria for evaluation.
nnual Program lan Requirement	1412(4)	F.R. 121a. 130	Each program plan must show that each public agency in the State maintains a record of the I.E.P. for each handicapped child and establishes reviews and revises each program as provided in Subpart C. Each annual program plan must include: 1) a copy of each statute, policy and standard that regulates all aspects of the I.E.P. 2) procedures which the SEA follows in monitoring and evaluating those programs.
		S.S. 341.17(a)	Each I.E.P. shall be reviewed at least annually and, if appropriate, revised in accordance with 341.16 (relating to conference).
Content	20 USC 1401(19); 1412 (2),(B),(6), 1414(a)(5)	F.R. 121a. 346	Each I.E.P. must include: (a) statement of present levels of educational performance; (b) statement of annual goals, including short-term objectives; (c) statement of specific Special Education and related services to be provided and the extent to which the child will be able to participate in regular educational programs; (d) projected dates for initiation of and anticipated duration of services; and (e) appropriate objective criteria and evaluation procedures and schedules for determining at least annually whether the short-term objectives are being achieved.
		S.S. 341.15	Identical to the specifications found in the Federal Regulations above.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
I.E.P.	PL94-142	Federal Regulations State Standards	
Definition of I.E.P.	20 USC 1401(19)	F.R. 121a. 340 S.S. 341.1	An I.E.P. means a written statement for a handicapped child that is developed and implemented in accordance with 121a. 341-121a. 349. See: ITEM: I.E.P. Definitions: no formal definition of I.E.P. The standards adopt the Federal Regulations definition for compliance.
Effective Dates	20 USC 1412(2)(B),(4),(6); 1414(a) (5) P.L. 94-142 Sec. 8(c) (1975)	F.R. 121a. 342 S.S. 341.16	I.E.P.'s must be in effect by October 1, 1977 and at the beginning of each school year thereafter for any handicapped child who is receiving Special Education from that agency. (1) Be in effect BEFORE Special Education and related services are provided (2) Be implemented as soon as possible following the meetings under 121a. 343 (See: ITEM: I.E.P. Meetings Time: (1) There shall be no change in educational status until the I.E.P. has been developed; (2) The I.E.P. Conference shall be conducted prior to the 1977-78 school year for exceptional children currently receiving Special Education programs or services.
First Priority Children	20 USC 1411(b)(c)	F.R. 121a. 322	The SEA or LEA may not delay in placing a previously unserved (first priority) child. If a major component of a program is not available, e.g. qualified teacher, an interim program must be provided as long as an I.E.P. be developed for full implementation no later than September 1, 1978. The SEA and LEA may use Part B funds for training or other support services in the 1977-78 school year only if all its first priority children have at least an interim program available

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I.E.P.	PL94-142	Federal Regulations State Standards	
ree Appropriate blic Education	20 USC 1401(18)	F.R. 121a. 4	Definition: Special Education and related services which are provided at public expense, under public supervision and without charge. Meet standards of SEA. Include pre-school, elementary or secondary school. Are provided in conformity with an individualized education program. See: ITEM: (I.E.P.General Requirements)
		S.S. 341.31	Plans: Special Education programs and services are administered in accordance with the Intermediate Unit plan for Special Education as set forth in Section 1372(2) of the Pennsylvania School Code of 1949 (24 P.S. #13-1372(2). I.E.P. specifications are identical to those found in Federal Regulations. See: ITEM: I.E.P. (Content) 341.15.
east Restrictive Environment (Placement)	20 USC 1412(5)(B)	F.R. 121a. 552	Placements: 1) Determined at least annually; 2) Based on the I.E.P.; 3) Is as close as possible to child's home. The public agency shall also insure that: the various alternative placements included under 121a.551 are available to the extent necessary to implement the I.E.P. Unless a child's I.E.P. requires some other arrangements, the child is educa- in the school which he/she would attend if not handicapped. Finally, in selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of services which he/she needs.
		S.S. Chapter 341 341.55(b) 341.35(b)(3)	(Standards for Special Education) addresses itself to this item in: Curriculum integration Continuum of services for LRE

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
I.E.P.	PL94-142	Federal Regulations State Standards	
Local Application Requirement (Part B Funds)		F.R. 121.a 235 S.S. Chapter 341 does	Application for Part B Funds: Each local educational agency must include procedures in its application for funds which assures compliance with Individualized Education Program specifications found in 121a. 340-121a. 349 of Subpart C (Services). not deal with this item
Meetings (Conference)	20 USC 1412(2)(B), (4),(6); 1414(a)(5)	F.R. 121a. 343 S.S. 341.16	Meetings: Each public agency is responsible for initiating and conducting meetings for the purpose of developing, reviewing and revising a handicapped child's I.E.P. For a newly identified handicapped child, a meeting must be held within 30 calendar days of a determination that a child needs Special Education and related services. Review: Each public agency shall initiate and conduct periodic meetings to review each I.E.P. and, if appropriate, revise its provisions. This must be done at least once a year. I.E.P. Conference: The State compliance to 121a. 343 is procedurally outlined here. The term conference is used instead of meeting.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
I.E.P.	PL94-142	Federal Regulations State Standards	
Parent Participation (at meetings)	20 USC 1401 (19); 1412 (2)(B)(4)(6) 1414 (a)(5)	F.R. 121a. 345	Parent Participation: Each public agency shall take steps to insure that one or both of the parents are present at each meeting or are afforded the opportunity to participate. These steps include: notification (early enough), mutually agreed upon meeting time and place. If neither parent can attend, other methods should be used to insure participation, e.g., individual or conference call. A meeting can be held without the parent in attendance if the parent cannot be convinced to attend. A record of attempts made to arrange a mutually agreed on time and place must be kept. This record could include: copies of correspondence sent to parents, detailed records of telephone calls made and the results of those calls, detailed records of visits made to the home or place of employment. Notes: Arrangements should be made, e.g., interpreter, when necessary, for the parent to understand what is going on at the meeting. Finally, the public agency shall give the parent (on request) a copy of the I.E.P.
		S.S. 341.16 (b)(1) (2)(3)	Parent Participation: The State Standards correspond directly with the specifications of the Federal Regulations, 121a. 345.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
I.E.P.	PL94-142	Federal Regulations State Standards	
Participants (in meetings)	20 USC 1401(19); 1412(2)(B),(4),(6); 1414(a)(5)	F.R. 121a. 344	Participants in Meetings: The public agency shall insure that each meeting includes the following participants: (1) a representative of the public agency, other than the child's teacher who is qualified to provide or supervise the provision of Special Education (LEA Rep.); (2) The child's teacher; (3) One or both of the child's parents (See: ITEM: I.E.P. (Parent Participation); (4) The child, where appropriate; (5) Other individuals at the discretion of the parent or the public agency. Note: For a handicapped child who has been evaluated for the first time, the public agency shall insure: (1) that a member of the evaluation team participates in the meeting; (2) that a representative of the public agency, the child's teacher or some other person is present at the meeting, who is knowledgeable about the evaluation procedures used with the child and is familiar with the results of the evaluation.
		S.S. 341.16	Participants: The State Standards are identical to the Federal Regulations (121a. 344).

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
I.E.P.	PL94-142	Federal Regulations State Standards	
Parochial or Other Private Schools (Responsibility)	20 USC 1413(a)(4)(A)	F.R. 121a. 348	Handicapped Children in Parochial or Other Private Schools: If a handicapped child is enrolled in a parochial school or other private school and receives Special Education or related services from a public agency, that agency shall: initiate, and conduct meetings, to develop, review and revise the I.E.P. (See: 121a. 343 - Meeting). The agency shall also insure that a representative of the parochial school or private school attends each meeting. If the representative cannot attend, the agency shall use other methods to insure participation, e.g., telephone calls.

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XVI. Individualized Education Program

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
I.E.P.	PL94-142	Federal Regulations State Standards	
Placement Procedures)	20 USC 1412(5)(C); 1414(a)(5)	F.R. 121a. 533	Placement Procedures: In interpreting evaluation data and in making placement decisions, each public agency shall: (1) Draw upon information from a variety of sources; (2) insure that information from these sources is documented and carefully considered; (3) insure that placement decision is made by a group of persons, including those most knowledgeable about the child and evaluation data; (4) insure that placement is made in conformity with the least restrictive environment rules in 121a. 550-554. Note: If a determination is made that a child needs Special Education and related services, an I.E.P. must be developed for the child in accordance with 121a. 340-349 of Subpart C. There shall be no change in educational status until the Individualized Education Program has been developed.
		S.S. 341.16(c)(1)	
			Also, See: ITEM: I.E.P. (Least Restrictive Environment) 121a. 552 (Placements)

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
I.E.P.	PL94-142	Federal Regulations State Standards	
Private Schools (Placements)	20 USC 1413(a)(4)(B)	F.R. 121a. 347	Private School Placements: An I.E.P. shall be developed by a public agency before a handicapped child is referred or placed in a private school or facility. This shall be done at a meeting (121a.343) and the agency shall insure that a representative of the private school attends the meeting. If the representative cannot attend, the agency shall use other means, e.g., telephone calls, to insure participation. After a handicapped child has entered a private school, any meetings to review and revise the child's I.E.P. may be initiated and conducted by the private school at the discretion of the public agency. When this is the case, the public agency shall insure that the parent(s) and an agency representative are: involved with any decision about the I.E.P., and agree to any changes before those changes are implemented. Note: Even if a private school implements the I.E.P., responsibility for compliance with this part remains with the public agency and the SEA.
		S.S. 341.22(a)(4)	Approved Private School: Whenever a school district and Intermediate Unit agree that the only source of an appropriate program of education for a school-aged person is in an approved private school, in accordance with the stated admission policy of the particular school, the recommendation and supporting evidence shall be forwarded to the Department of Education for final approval in accordance with 171.13 and 171.16 of this title (relating to assignment and re-evaluation).

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
I.E.P.	PL94-142	Federal Regulations State Standards	
Reevaluation	20 USC 1412(5)(c)	F.R. 121a. 534	Reevaluation: Each SEA and LEA shall insure that each handicapped child's I.E.P. is reviewed in accordance with 121a. 340-349 (See: ITEM: I.E.P. (General Requirements) Furthermore, an evaluation of the child, based on procedures which meet the requirements under 121a. 532 (evaluation procedures) is conducted every three years or more frequently if conditions warrant or if the child's parent or teacher requests an evaluation.
		S.S. 341.17(b)	Reevaluation: At least once every two years, the review or revision, or both, of the I.E.P. shall be based on an analysis of the documented cumulative record of the student by a team in accordance with 341.13(g) (relating to evaluation). Parental consent is not required for a reevaluation. The reevaluation may include administration of individual psychological tests administered by a certified public school psychologist and other clinical exams if needed. If the LEA deems it appropriate, the reevaluation may be conducted more frequently.

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XI. Individualized Education Program

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
I.E.P.	PL94-142	Federal Regulations State Standards	
Responsibility (SEA)	20 USC 1413(a)(4)(B)	F.R. 121a. 401	Responsibility of State Educational Agency: Each SEA shall insure that a handicapped child who is placed or referred to a private school or facility by a public agency: (1) is provided Special Education and related services in accordance with the I.E.P. at no cost to the parents; at a school or facility which meets the standards that apply to State and local educational agencies. Furthermore, each child is guaranteed all the rights of a handicapped child who is served by a public agency.
	20 USC 1412(4)(6); 1413(a)(4)	F. R. 121a. 341	SEA responsibility: SEA shall insure that each public agency develop and implement an I.E.P. for each of its handicapped children. SEA has the same responsibility for a handicapped child who is placed in or referred to a private school or facility by a public agency or or who is enrolled in a parochial or other private school and receives Special Education or related services from a public agency.
		S.S. 341.1 - 341.71	State compliance to P.L. 94-142

Index for XXII. - Least Restrictive Environment

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XIII. (Least Restrictive Environment)

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
LRE	PL94-142	Federal Regulations State Standards	
Annual Program Plan (SEA)	20 USC 1412(5)(B)	F.R. 121a. 132	Each annual program plan must include procedures which insure that the requirements in 121a. 550-556 (Least Restrictive Environment) of Subpart E are met. Each annual program plan must include the following information: 1) The number of handicapped children in the State, within each disability category, who are participating in regular education programs consistent with the LRE requirements of Subpart E. 2) The number of handicapped children who are in separate classes or separate school facilities, or who are otherwise removed from the regular education environment.
		S.S. 341.31	Special education programs and services shall be administered in accordance with the Intermediate Unit plan for Special Education as set forth in Section 1372(2) of the Public School Code of 1949 (24 P.S. #13-1372(2).
Local Application Requirement (LRE Procedures)	20 USC 1414(a)(1)(C)(iv)	F.R. 121a. 227	Participation in Regular Education Programs Each application must include procedures to insure that to the maximum extent "practicable" and consistent with the LRE requirements of Subpart E, the local educational agency provides special services to enable handicapped children to participate in regular educational programs. Each application must describe: 1) The types of alternative placements that are available for handicapped children, and 2) The number of handicapped children within each disability category who are served in each type of placement.
		S.S. 341.32 (1)(2)	School District's Plans: Each school district shall develop and maintain a plan which specifies all

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
LRE	PL94-142	Federal Regulations State Standards	
Local Application (Continued)		S.S. 341.32 (1)(2)	Special Education programs and services to be district-operated and which designates those programs and services required from the Intermediate Unit. The plan shall also identify those regular education programs which may be used to implement Individualized Education Programs. Intermediate Unit Plans: School district plans shall be incorporated in the Intermediate Unit plan. Intermediate Unit plans shall specify the programs and services to be operated by the Intermediate Unit and shall incorporate those programs and services operated by individual school districts, including regular education programs which may be used to implement Individualized Education Programs. The plan shall specify those programs and services required from approved private schools.
Mainstreaming (Responsibility)	20 USC 1412(5)(B); 20 USC 1414(a)(1)(C)(iv)	F.R. 121a. 550	Each State educational agency shall insure that each public agency establishes and implements procedures which meet the requirements of 121a. 550-556 relating to the Least Restrictive Environment namely: continuum of alternative placements, placements, nonacademic settings, children in public or private institutions, technical assistance and training activities and monitoring activities. Note: Each of these areas are specifically listed and dealt with in this section of the Concordance. Each public agency shall insure: 1) That to the maximum extent, "appropriate" handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped,

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
E	PL94-142	Federal Regulations State Standards	
Mainstreaming (continued)			and, 2) that special classes, separate schooling or other removal of handicapped children from the regular education environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.
Monitoring Activities (EA)	20 USC 1412(5)(B)	F.R. 121a. 556 S.S. 341. 35(b)(3)	The State educational agency shall carry out activities to insure that 121a. 550 (see above) is implemented by each public agency. If there is evidence that a public agency makes placements that are inconsistent with 121a. 550, the State educational agency shall: review the public agency's justification for its actions and shall assist in planning and implementing any necessary corrective action. Based on expected incidence rates, there is a full continuum of programs and services to permit the least restrictive assignment and appropriate services in accordance with #13.1(d) (relating to program responsibilities) and 341.51 of this title (relating to organization).
Nature and Location of State Services	20 USC 1414(d)	121a. 361	The State educational agency may provide Special Education and related services under 121a. 360(a) (those residing in area of local educational agency) in the manner and at the location it considers appropriate. However, the manner in which the education and services are provided must be consistent with the requirements of this part (including the least restrictive environment provisions of 121a. 550-556 of Subpart E).

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
E	PL94-142	Federal Regulations State Standards	
nacademic rvices	20 USC 1412(2)(A); 1414(a)(1)(C)	F.R. 121a. 306	Each public agency shall take steps to provide nonacademic and extracurricular services and activities in such manner as is necessary to afford handicapped children an equal opportunity for participation in those services and activities. Nonacademic services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies which provide assistance to handicapped persons and employment of students, including both employment by the public agency and assistance in making outside employment available.
Nonacademic ttings	20 USC 1412(5)(B)	F.R. 121a. 553	In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in 121a. 306 (see above) of Subpart C, each public agency shall insure that each handicapped child participates with nonhandicapped children in those services and activities to the maximum extent appropriate to the needs of the child. Note: This section 121a. 553 is taken from a new requirement in the final regulations for Section 504 of the Rehabilitation Act of 1973.
ysical Education	20 USC 1401(16); 1412(5)(B); 1414(a)(6)	F.R. 121a. 307	General: Physical education services, specially designed if necessary, must be made available to every handicapped child receiving a free appropriate public education.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
LRE	PL94-142	Federal Regulations State Standards	
Physical Education (Continued)			Regular Physical Education: Each handicalled child must be afforded the opportunity to participate in the regular physical education program available to non-handicapped children unless: 1) The child is enrolled full time in a separate facility; or 2) the child needs specially designed physical education, as prescribed in the child's I.E.P. Special Physical Education: If specially-designed physical education is prescribed in a child's I.E.P., the public agency responsible for the education of that child shall provide the services directly, or make arrangements for it to be provided through other public or private programs. Education in Separate Facilities: The public agency responsible for the education of a handicapped child who is enrolled in a separate facility shall insure that the child receives appropriate physical education services in compliance with paragraphs (a) General and (c) Special Phys. Ed. of this section.
Placements (Alternative)	20 USC 1412(5)(B)	F.R. 121a. 551	Each public agency shall insure that a continuum of alternative placements is available to meet the needs of handicapped children for Special Education and related services. The continuum required under this paragraph must: 1) Include the alternative placements listed in the definition of Special Education under 121a. 13 of Subpart A (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions). Moreover, each public agency shall make provision for supplementary services (such as resource room or itinerant

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
LRE	PL94-142	Federal Regulations State Standards	
Placements (Alternative) (continued)		S.S. 341. 35(b)(3)	instruction) to be provided in conjunction with regular class placement. Continuum of programs and services. (See: ITEM: LRE - Monitoring Activities)
Placements Alternative: Priority Order)			NOTE: The following priority of order of educational placement for handicapped school-age person shall be followed except where a deviation is needed to meet the appropriate needs of the person or the purpose of these regulations: (1) A regular class in a regular school with supporting services. (2) A school district Special Education program in a regular school including homebound instruction. (3) A school district Special Education program in a special facility. (4) An Intermediate Unit program in a regular school. (5) An Intermediate Unit program in a special facility. (6) An approved private school program. (7) A state school program. (8) An approved out-of-state program. (9) An Intermediate Unit program of instruction in the home. (Source: State Board of Education. Pa. Code Title 22 - Education. Chapter 13.11 Program Responsibility (d) Adopted June 12 1975). COROLLARY: While Section 504 of the Rehabilitation Act of 1973 is virtually identical to the least restrictive statute in P.L. 94-142, there remains one notable distinction. The 504 regulation would seem to consider the "nearest placement to home" as an additional determinant of instructional placement in the least restrictive environment. (See: #84.34(a) of 504).

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
	PL94-142	Federal Regulations State Standards	
Placements (Criteria)	20 USC 1412(5)(B)	F.R. 121a. 552	Each public agency shall insure that: a) each handicapped child's educational placement is: 1) Determined at least annually, 2) Based on his/her I.E.P., 3) As close as possible to the child's home. b) The various alternative placements included under 121a. 551 (continuum of alternative placements) are available to the extent necessary to implement the I.E.P. for each handicapped child, unless a handicapped child's I.E.P. requires some other arrangement, the child is educated in the school which he or she would attend if not handicapped. In selecting the least restrictive environment, consideration should be given to any potential harmful effect on the child or on the quality of services which he or she needs.
		S.S. 341. 21	Regardless of the choice of administrative arrangement, provision shall be made for the maximum amount of appropriate integration and contact with regular education students.
Placements (Decisions-Child's Status)	20 USC 1415(e)(3)	F.R. 121a. 513	During the pendency of any administrative or judicial proceeding regarding a complaint, unless the public agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his/her present educational placement. If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school program until the completion of all the proceedings. Note: If the child is endangering himself or others, the public agency may take steps (normal procedures) to remediate the situation.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
LRE	PL94-142	Federal Regulations State Standards	
Placement (Procedures)	20 USC 1412(5)(C); 1414(a)(5)	F.R. 121a. 533	In interpreting evaluation data and in making placement decisions, each public agency shall: 1) Draw upon information from a variety of sources, including aptitude and achievement test, teacher recommendations, physical condition, social or cultural background and adaptive behavior; 2) Insure that information obtained from all of these sources is documented and carefully considered; 3) Insure that placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data and the placement options; 4) Insure that the placement decision is made in conformity with the least restrictive environment rules in 121a. 550-554. If a determination is made that a child is handicapped and needs Special Education and related services, an I.E.P. must be developed for the child. (See: ITEM: XXI. I.E.P.)
Program Options	20 USC 1412(2)(A); 1414(a)(1)(C)	F.R. 121a. 305	Each public agency shall take steps to insure that its handicapped children have available to them the variety of educational programs and services available to non-handicapped children in the area served by the agency, including art, music, industrial arts, consumer and home-making education and vocational education.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
LRE	PL94-142	Federal Regulations State Standards	
Public/Private Institutions	20 USC 1412(5)(B)	F.R. 121a. 554 S.S. 341.22 (a)(4)	Each State educational agency shall make arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures) as may be necessary to insure that 121a. 550 (Least Restrictive Environment) is effectively implemented. To meet the needs of certain individual school-aged exceptional persons, an approved private school assignment shall be recommended and approved by district and Intermediate Unit staff (professional) whenever an appropriate placement cannot be provided within the local public schools solely because of the nature and incidence of the handicapping condition of the student.
Technical Assistance (SEA Responsibility)	20 USC 1412(5)(B)	F.R. 121a. 555	Each State educational agency shall carry out activities to insure that teachers and administrators in all public agencies: a) Are fully informed about their responsibilities for implementing the least restrictive environment requirements and b) are provided with technical assistance and training necessary to assist them in this effort.

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XXIII Matching (State Funds)

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Matching (State Funds)	PL94-142	Federal Regulations State Standards	
Matching	20 USC 1411(c)(2)	F.R. 121a. 371	State Matching. Beginning with the period July 1, 1978-June 30, 1979, and for each following year, the funds that a State uses for direct and support services must be matched on a program basis by the State from funds other than Federal funds. This requirement does not apply to funds that the State uses under #121a. 360 (Use of Local Educational Agency Allocation for Direct Services).

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XXIV Monitoring

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Monitoring	PL94-142	Federal Regulations State Standards	
Annual Program Plan Requirement		F.R. 121a. 128(b)(5)	Identification, Location, and Evaluation of Handicapped Children. See-XIX ITEM: Identification, Location, Evaluation (Annual Program Plan).
		F.R. 121a. 130(b)(2)	Individualized Education Programs. See-XXI ITEM: I.E.P. (Annual Program Plan).
		F.R. 121a. 135	Monitoring Procedures. See-IV ITEM: Annual Program Plan (Contents).
Auditing Count of Children Served		F.R. 121a. 754	Annual Report of Children Served - Other Responsibilities of the SEA. See-XLI ITEM: Time Limits and Timetables (Report of Children Served).
Confidentiality of Information	20 USC 1412(2)(D), 1417(c)	F.R. 121a. 575	Enforcement. The SEA shall describe in its annual program plan the policies and procedures, including sanctions, which the State uses to insure that its policies and procedures are followed and that the requirements of the Act and the regulations in this part are met
Identification, Location, Evaluation		F.R. 121a. 128(b)(5)	See, above (Annual Program Plan Requirements).
I.E.P.'s		F.R. 121a. 130(b)(2)	See, above (Annual Program Plan Requirements).

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Monitoring	PL94-142	Federal Regulations State Standards	
Least Restrictive Environment		F.R. 121a. 556	Monitoring Activities. See-XXII ITEM: Least Restrictive Environment (Monitoring).
Private School Children	20 USC 1413(a)(4)(B)	F.R. 121a. 402(a)	Implementation by SEA. The SEA shall (a) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires.
SEA Responsibility		F.R. 121a. 601	Monitoring and Evaluation Activities. See-XLI ITEM: Time Limits and Timetables (State Monitoring of Public Agencies).

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XXV Nondiscrimination

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Nondiscrimination	PL94-142	Federal Regulations State Standards	
Annual Program Requirement		F.R. 121a. 150	Nondiscrimination and Employment of Handicapped Individuals. See-IV ITEM: Annual Program Plan (Contents).
Evaluation Materials and Procedures		F.R. 121a. 530	General. See-XIII ITEM: Evaluation (Protection).
Local Application Requirement		F.R. 121a. 239	Nondiscrimination and Employment of Handicapped Individuals. See-VI ITEM: Application by Local Agency (Content).
Nonacademic Services		F.R. 121a. 306	Nonacademic Services. See-XXII ITEM: Least Restrictive Environment (Nonacademic Services).
Private School Children	20 USC 1413(a)(4)(A)	F.R. 121a. 458	Prohibition of Segregation. Programs or projects carried out in public facilities and involving joint participation by eligible handicapped children enrolled in private schools and public schools, may not include classes that are separated on the basis of school enrollment or the religious affiliations of the children.
Program Options		F.R. 121a. 305	Program Options. See-XXII ITEM: Least Restrictive Environment (Program Options).
Testing Materials and Procedures	20 USC 1412(5)(C)	F.R. 121a. 530	See, above (Evaluations, Materials and Procedures).

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XXVI Notice

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Notice	PL94-142	Federal Regulations State Standards	
Confidentiality of Information		F.R. 121a. 561	Notice to Parents. See-X ITEM: Confidentiality of Information (General Requirements-Notice).
	20 USC 1412(2)(D); 1417(c)	F.R. 121a. 573	Destruction of Information. (a) The public agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child. (b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without the limitation.
I.E.P. Meeting		F.R. 121a. 345	Parent Participation. See-XXI ITEM: I.E.P. (Parent Participation).
Initiation or Change or Identification, etc.		F.R. 121a. 504	Prior Notice; Parent Consent. See-XIII ITEM: Evaluation (Handicapped Children-Consent For).
		F.R. 121a. 505	Content of Notice. See-XIII ITEM: Evaluation (Handicapped Children-Consent For).
Notice of Opportunity For a Hearing			See, XVIII ITEM: Hearings.

XXVI Notice

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Notice	PL94-142	Federal Regulations State Standards	
Notice of Procedural Safeguards		F.R. 121a. 505	Content of Notice. See, above.
Public Notice of Withholding Payments		F.R. 121a. 592	Public Notice by State and Local Educational Agencies. See-XVIII ITEM: Hearings (Office of Education Procedures).

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XXVII Personnel Development

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Personnel Development	PL94-142	Federal Regulations State Standards	
Annual Program Plan Requirement	20 USC 1413(a)(3)	F.R. 121a. 139	Comprehensive System of Personnel Development. Each annual program plan must include the material required under #121a. 380-387 (Comprehensive System of Personnel Development--See, below) of Subpart C.
Comprehensive System of Personnel Development	20 USC 1413(a)(3)	F.R. 121a. 380	Scope of System. Each plan must include a description of programs and procedures for the development and implementation of a comprehensive system of personnel development which includes: (a) The inservice training of general and special educational instructional, related services, and support personnel. (b) Procedures to insure that all personnel necessary to carry out the purposes of the Act are qualified and that activities sufficient to carry out this personnel development plan are scheduled. Note: the term "qualified" means that a person has met State educational agency approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services. (Source: 121a. 12 Subpart A) (c) Effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research,

XXVII Personnel Development

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Personnel Development	PL94-142	Federal Regulations State Standards	
Comprehensive System of Personnel Development con't.		F.R. 121a. 380	demonstration, and similar projects, and for adopting, where appropriate, promising educational practices and materials developed through those projects.
	20 USC 1412(7)(A), 1413(a)(3)	F.R. 121a. 381	Participation of Other Agencies and Institutions. (a) The SEA must insure that all public and private institutions of higher education, and other agencies and organizations (including representatives of handicapped parent and other advocacy organizations) in the State which have an interest in the preparation of personnel for the education of handicapped children, have an opportunity to participate fully in the development, review and annual updating of the comprehensive system of personnel development. (b) The plan must describe the nature and extent of participation and must describe responsibilities of the SEA, LEA, public and private institutions of higher education, and other agencies: (1) With respect to the comprehensive system as a whole, and (2) With respect to the personnel development plan.
	20 USC 1413(a)(3)	F.R. 121a. 382	Inservice Training. (a) As used in this section, 'inservice training means any training other than that received by an individual in a full-time program which leads to a degree. (b) Each plan must provide that the SEA: (1) Conducts an annual needs assessment to determine if a sufficient number of qualified

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Personnel Development	PL94-142	Federal Regulations State Standards	
Comprehensive System con't		F.R. 121a. 382	personnel are available in the State, and (2) Initiates inservice personnel development programs based on the assessed needs of State-wide significance related to the implementation of the Act. (c) Each plan must include the results of the needs assessment, broken out by need for new personnel and need for retrained personnel. (d) The SEA may enter into contracts with institutions of higher education, LEA's or other agencies, institutions, or organizations, to carry out: (1) Experimental or innovative personnel development programs; (2) Development or modification of instructional materials; and (3) Dissemination of significant information derived from educational research and demonstration projects. (e) Each plan must provide that the SEA insures that ongoing inservice training programs are available to all personnel who are engaged in the education of handicapped children, and that these programs include: (1) The use of incentives which insure participation by teachers (such as released time, payment for participation, options for academic credit, salary step credit, certification renewal, or updating professional skills); (2) The involvement of local staff; and (3) The use of innovative practices which have been found to be effective.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Personnel Development	PL94-142	Federal Regulations State Standards	
Comprehensive System con't.		F.R. 121a. 382	(f) Each program plan must: (1) Describe the process used in determining the inservice training needs of personnel engaged in the education of handicapped children; (2) Identify the areas in which training is needed (such as I.E.P.'s, nondiscriminatory testing, least restrictive environment, procedural safeguards, and surrogate parents); (3) Specify the groups requiring training (such as special teachers, regular teachers, administrators, psychologists, speech-language pathologists, audiologists, physical education teachers, therapeutic recreation specialists, physical therapists, occupational therapists, medical personnel, parents, volunteers, hearing officers, and surrogate parents); (4) Describe the content and nature of training for each area under paragraph (f)(2) of this section; (5) Describe how the training will be provided in terms of (i) geographical scope (such as Statewide, regional, or local), and (ii) staff training source (such as college and university staffs, State and local educational agency personnel, and non-agency personnel); (6) Specify: (i) The funding sources to be used, and (ii) The time frame for providing it; and (7) Specify procedures for effective evaluation of the extent to which program objectives are met.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Personnel Development	PL94-142	Federal Regulations State Standards	
Comprehensive System con't.	20 USC 1413(a)(3)	F.R. 121a. 383	Personnel Development Plan. Each plan must: (a) Include a personnel development plan which provides a structure for personnel planning and focuses on preservice and inservice education needs; (b) Describe the results of the needs assessment with respect to identifying needed areas of training, and assigning priorities to those areas; and (c) Identify the target population for personnel development, including general education and special education instructional and administrative personnel (such as para-professionals, parents, surrogate parents, and volunteers).
	20 USC 1413(a)(?)	F.R. 121a. 384	Dissemination. (a) Each annual plan must include a description of the State's procedures for acquiring, reviewing, and disseminating to general and special education instructional and support personnel, administrators of programs for handicapped children, and other interested agencies and organizations (including parent, handicapped, and other advocacy organizations) significant information and promising practices derived from educational research, demonstration, and other projects. (b) Dissemination includes: (1) Making those personnel, administrators, agencies, and organizations aware of the information and practices; (2) Training designed to enable the establishment of innovative programs and practices targeted on

XVII Personnel Development

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Personnel Development	PL94-142	Federal Regulations State Standards	
Comprehensive System con't.		F.R. 121a. 384	identified local needs; and (3) Use of instructional materials and other media for personnel development and instructional programming.
	20 USC 1413(a)(3)	F.R. 121a. 385	Adoption of Educational Practices. (a) Each plan must provide for a statewide system designed to adopt, where appropriate, promising educational practices and materials proven effective through research and demonstration. (b) Each plan must provide for thorough reassessment of educational practices used in the State. (c) Each plan must provide for the identification of State, local, and regional resources (human and material) which will assist in meeting the State's personnel preparation needs.
	20 USC 1413(a)(3)	F.R. 121a. 386	Evaluation. Each plan must include: (a) Procedures for evaluating the overall effectiveness of: (1) The comprehensive system of personnel development in meeting the needs for personnel, and (2) The procedures for administration of the system; and (b) A description of the monitoring activities that will be undertaken to assure the implementation of the comprehensive system of personnel development.
	20 USC 1413(a)(3)	F.R. 121a. 387	Technical Assistance to LEA's. Each plan must include a description of technical assistance that the SEA gives to local educational agencies in their implementation of the State's comprehensive system of personnel development.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Personnel Development	PL94-142	Federal Regulations State Standards	
Included in State Support Services	20 USC 1411(b)(2); (c)(2)	F.R. 121a. 370	Use of SEA Allocation for Direct and Support Services. (a) The State shall use the portion of its allocation it does not use for administration to provide support services and direct services in accordance with the priority requirements (b) For the purposes of paragraph (a) of this section: (1) "Direct services" means services provided to a handicapped child by the State directly, by contract, or through other arrangements. (2) "Support services" includes implementing the comprehensive system of personnel development, recruitment and training of hearing officers and surrogate parents and public information and parent training activities relating to a free appropriate public education for handicapped children.
Least Restrictive Environment		F.R. 121a. 555	Technical Assistance and Training Activities. See- XXII ITEM: Least Restrictive Environment (Technical Assistance).
Local Application Requirement	20 USC 1414(a)(1)(C)(i)	F.R. 121a. 224	Personnel Development. Each application must include procedures for the implementation and use of the comprehensive system of personnel defelopment established by the SEA.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Personnel Development	PL94-142	Federal Regulations State Standards	
Personnel		S.S. 341. 57	Personnel. (a) Certification. Professional personnel shall meet the standards as defined in the Department of Education Professional and Staffing Policies and Guidelines for Certification of Professional School Personnel. Teachers shall hold the proper certification for special education assignment. (b) Para-professionals. Para-professionals and supportive personnel shall be employed in accordance with specific program needs. (c) Supervision. Supervisory personnel shall be certificated and assigned in accordance with Professional Personnel and Staff Policies and Guidelines for Certification of Professional School Personnel. (d) In-service Training. School districts or intermediate units, or both, shall provide in-service training for teachers, special and regular, principals, administrators, and supporting staff responsible for programs for school-aged exceptional persons.
Personnel Needs	20 USC 1412(2)(A)	F.R. 121a. 126	Full Educational Opportunity-Goal-Facilities, Personnel, etc. See IV ITEM: Annual Program Plan (Contents).
	20 USC 1414(a)(1)(E)	F.R. 121a. 223	Facilities, Personnel, Services. Each application must provide a description of the kind and number of facilities, personnel and services necessary to meet the goal.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Personnel Development	PL94-142	Federal Regulations State Standards	
Preservice Training	20 USC 1413(a)(3), Senate Report No. 94-168, p. 34 (1975)	F.R. 121a. 321	Priorities. (a) Each SEA and LEA shall use funds provided under Part B of the Act in the following order of priorities: (1) To provide free appropriate public education to first priority children, including the identification, location, and evaluation of first priority children. (2) To provide free appropriate public education to second priority children, including identification, location and evaluation of second priority children. (3) To meet the other requirements in this part. (b) The requirements of paragraph (a) of this section do not apply to funds which the State uses for administration. (c) SEA's and LEA's may not use funds under Part B of the Act for preservice training. Note: After September 1, 1978 Part B funds may be used. (1) To continue supporting child identification, location and evaluation activities, (2) To provide free appropriate public education to newly identified first priority children, (3) To meet the full educational opportunities goal including employing additional personnel and providing inservice training, in order to increase the level, intensity, and quality of services provided to individual handicapped children; and (4) To meet the other requirements of Part B.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Personnel Development	PL94-142	Federal Regulations State Standards	
Trained Personnel For Evaluation Materials	20 USC 1412(5)(C)	F.R. 121a. 532	Evaluation Procedures. State and local educational agencies shall insure, at a minimum, that....tests and other evaluation materials.... (3) Are administered by trained personnel in conformance with the instructions provided by their producer....
Training Regarding Confidentiality of Information	20 USC 1412(2)(D),	F.R. 572	Safeguards. ...(c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under #121a. 129 (Confidentiality) of Subpart B and Part 99 of this title.
Use of Part B Funds for Training		F.R. 121a. 321	See XXVII ITEM. Personnel Development (Preservice Training)
		F.R. 121a. 322	First Priority Children: See XXI ITEM: I.E.P. (First Priority Children).

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XXVIII Physical Education

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Physical Education	PL94-142	Federal Regulations State Standards	
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XXIX Priorities

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Definitions (First Priority Children)		F.R. 121a. 320(a)	Definitions of 'First Priority and Second Priority Children' See-XV ITEM: Free Appropriate Public Education (Priorities).
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		F.R. 121a. 321	Priorities. See-XXVIII ITEM: Personnel Development (Pre-service Training).
		F.R. 121a. 322	First Priority Children-1977-1978. See-XXI ITEM: I.E.P. (First Priority Children).
		F.R. 121a. 323	Services to Other Children. See-XV ITEM: FAPE (Priorities).
		F.R. 121a. 324	Application of LEA to Use Funds for Second Priority. See-VI ITEM: Application by Local Agency (Second Priority Children).
Local Application Requirement		F.R. 121a. 225	Priorities. See VI ITEM: Application by Local Agency (Content).
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Private School Children	PL94-142	Federal Regulations State Standards	
Annual Program Plan Requirement		F.R. 121a. 140	Private Schools. See-IV ITEM: Annual Program Plan (Contents).
Confidentiality of Information		F.R. 121a. 560	Definitions. See-X ITEM: Confidentiality of Information (Definitions).
Cost of Residential Placement		F.R. 121a. 302	Residential Placement. See-XV ITEM: Free Appropriate Public Education (Generally).
Handicapped Children Not Placed or Referred by Public Agencies	20 USC 1413(a)(4)(A)	F.R. 121a. 450	Applicability of the Following-#121a. 451-460. As used in the following, 'private school handicapped children means handicapped children enrolled in private schools or facilities other than handicapped children covered under #121a. 400-403 (Handicapped Children Placed or Referred by Public Agencies).
	20 USC 1413(a)(4)(A)	F.R. 121a. 451	SEA Responsibility. The SEA shall insure that: (a) To the extent consistent with their number and location in the State, provision is made for the participation of private schoolhandicapped children in the program assisted or carried out under this part by providing them with special education and related services; and (b) The other requirements in this section are met.
	20 USC 1413(a)(4)(A) 1414(a)(b)	F.R. 121a. 452	LEA Responsibility. (a) Each LEA shall provide special education and related services designed to meet the

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Private School Children	PL94-142	Federal Regulations State Standards	
Handicapped Children Not Placed ... con't.		F.R. 121a. 452	needs of private school handicapped children residing in the jurisdiction of the agency. (b) Each LEA shall provide private school handicapped children with genuine opportunities to participate in special education and related services consistent with the number of those children and their needs.
		F.R. 121a. 453	Determination of Needs, Number of Children, and Types of Services. See-XIX ITEM: Identification, Location, Evaluation (Private School Children).
	20 USC 1413(a)(4)(A)	F.R. 121a. 454	Service Arrangements. Services to private school handicapped children may be provided through such arrangements as dual enrollment, educational radio and television, and the provision of public educational services and equipment.
	20 USC 1413(a)(4)(A); Wheeler vs. Barrera, 417 U.S. 402 (1974)	F.R. 121a. 455	Differences in Services to Private School Handicapped Children. An LEA may provide special education and related services to private school handicapped children which are different from the special education and related services it provides to public school children, if: (a) The differenced are necessary to meet the special needs of the private school handicapped children, and (b) The special education and related services are comparable in quality, scope, and opportunity for participation to those provided to public

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Private School Children	PL94-142	Federal Regulations State Standards	
Handicapped Children Not Placed.... con't.		F.R. 121a. 455	school children with needs of equal importance.
	20 USC 1413(a)(4)(A)	F.R. 121a. 456	Personnel. (a) Public school personnel may be made available in other than public school facilities only to the extent necessary to provide services required by the handicapped children for whose needs those services were designed, and only when those services are not normally provided by the private school. (b) Each SEA or LEA providing services to children enrolled in private schools shall maintain continuing administrative control and direction over those services. (c) The services provided with funds under Part B of the Act for eligible handicapped children enrolled in private schools may not include; (1) The payment of salaries of teachers or other employees of private schools except for services performed outside their regular hours of duty and under public supervision and control; or (2) The construction of private school facilities.
	20 USC 1413(a)(4)(A)	F.R. 121a. 457	Equipment. (a) Equipment acquired with funds under Part B of the Act may be placed on private school premises for a limited period of time, but the title to and administrative control over all equipment must be retained and exercised by a public agency.

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Private School Children	PL94-142	Federal Regulations State Standards	
Handicapped Children Not Placed.... con't.		F.R. 121a. 457	(b) In exercising administrative control, the public agency shall keep records of and account for the equipment, and shall insure that the equipment is used solely for the purposes of the program or project, and remove the equipment from the private school premises if necessary to avoid its being used for other purposes or it is no longer needed for the purposes of the program or project.
		F.R. 121a. 458	Prohibition of Segregation. See- XXV ITEM: Nondiscrimination (Private School Children).
	20 USC 1413(a)(4)(A)	F.R. 121a. 459	Funds and Property not to Benefit Private School. Funds provided under Part B of the Act and property derived from those funds may not insure to the benefit of any private school.
	20 USC 1413(a)(4)(A)	F.R. 121a. 460	Existing Level of Instruction. Provisions for serving private school handicapped children may not include the financing of the existing level of instruction in the private school.
I.E.P.		F.R. 121a. 347	Private School Placements. See-XXI ITEM: Individualized Education Program (Private Schools-Placements).
		F.R. 121a. 348	Handicapped Children in Parochial or Other Private Schools. See-XXI ITEM: I.E.P. (Parochial...).

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Physical Education		F.R. 121a. 307	Physical Education. See- XXII ITEM. Least Restrictive Environment (Physical Education).

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XXXII Public Participation

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XXXII Public Participation

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Comparable Services		F.R. 121a. 231	Comparable Services. See-VI ITEM: Application by Local Agency (Content).
Count of Children Served		F.R. 121a. 754	Annual Report of Children Served-Other Responsibilities of SEA. See-XLI ITEM: Time Limits and Timetables (Report of Children Served).
Excess Costs	20 USC 1402(20), 1414(a)(1)	F.R. 121a. 183	Meeting the Excess Cost Requirement. (a) An LEA meets the excess cost requirement if it has on the average spent at least the amount determined under #121a. 184 (Computation of Minimum Amount-see, XIV ITEM: Excess Costs) for the education of each of its handicapped children. This amount may not include capital outlay or debt service. (b) Each LEA must keep records adequate to show that it has not met the excess cost requirement.
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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
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XXXIV Related Services

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Related Services	PL94-142	Federal Regulations State Standards	
Defined	20 USC 1401(17)	F.R. 121a. 13	Related Services. (a) As used in this part, the term "related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education, and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training. (b) The terms used in this definition are defined as follows: (1) "Audiology" includes: (i) Identification of children with hearing loss, (ii) Determination of the range, nature and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing; (iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation; (iv) Creation and administration of programs for prevention of hearing loss, (v) Counseling and guidance of pupils, parents, and teachers regarding hearing loss; and

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Related Services	PL94-142	Federal Regulations State Standards	
Defined con't.		F.R. 121a. 13	(vi) Determination of the child's need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification. (2) "Counseling services" means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel. (3) "Early identification" means the implementation of a formal plan for identifying a disability as early as possible in a child's life. (4) "Medical services" means services provided by a licensed physician to determine a child's medically related handicapping condition which results in the child's need for special education and related services. (5) Occupational therapy" includes: (i) Improving, developing or restoring functions impaired or lost through illness, injury, or deprivation; (ii) Improving ability to perform tasks for independent functioning when functions are impaired or lost and (iii) Preventing, through early intervention, initial or further impairment or loss of function. (6) Parent counseling and training" means assisting parents in understanding the special needs of their child and providing parents with information about child development. (7) "Physical therapy" means services provided by a qualified physical therapist.

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Related Services	PL94-142	Federal Regulations State Standards	
Defined con't.		F.R. 121a. 13	(8) "Psychological services" includes: (i) Administering psychological and educational tests, and other assessment procedures; (ii) Interpreting assessment results; (iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning; (iv) Consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews, and behavioral evaluations; and (v) Planning and managing a program of psychological services, including psychological counseling for children and parents. (9) "Recreation" includes: (i) Assessment of leisure function; (ii) Therapeutic recreation services; (iii) Recreation programs in schools and community agencies; and (iv) Leisure education. (10) "School health services" means services provided by a qualified person. (11) "Social work services in schools" include: (i) Preparing a social or developmental history on a handicapped child; (ii) Group and individual counseling with the child and family; (iii) Working with those problems in a child's living situation (home, school, and community), that affect the child's adjustment in school; and (iv) Mobilizing school and community resources to enable the child to receive maximum benefit

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Related Services	PL94-142	Federal Regulations State Standards	
Defined con't.		F.R. 121a. 13	from his or her educational program. (12) "Speech pathology includes: (i) Identification of children with speech or language disorders; (ii) Diagnosis and appraisal of specific speech or language disorders; (ii) Referral for medical or other professional attention necessary for the habilitation of speech or language disorders; (iv) Provisions of speech and language services for the habilitation or prevention of communicative disorders; and (v) Counseling and guidance of parents, children, and teachers regarding speech and language disorders. (13) "Transportation" includes (i) Travel to and from school and between schools; (ii) Travel in and around school buildings, and (iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a handicapped child. Note: Senate Report No. 94-168, p.12 (1975) makes it clear that all such related services may not be required for each individual child. Furthermore, the list of related services is not exhaustive and may include other developmental, corrective or supportive services (such as artistic and cultural programs and art, music, and dance therapy), if they are required to assist a handicapped child to benefit from special education.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Related Services	PL94-142	Federal Regulations State Standards	
Defined con't.		S.S. 341. 58	Instructional Materials, Equipment, and Supplies. (a) General Rule. Instructional materials, equipment, and supplies provided for exceptional school-aged persons shall be equivalent to those provided for school-aged persons in regular education and of comparable age, grade, and interest levels, with such modifications as may be necessary to meet the individual needs of the exceptional school-aged person and shall be subject to review and approved by the Department. (b) Furniture. Furniture shall be suited to the age, size, physical status, and individual needs of exceptional school-aged persons and shall be subject to review and approved by the Department. (c) Special Equipment. Exceptional school-aged persons who require special instructional materials, supplies and equipment shall be provided with these items in accordance with the Individualized Education Program.
		S.S. 341. 59	Facilities. (a) General Rule. Special education schools and classrooms shall be comparable to regular schools and classrooms and shall co conform to the requirements of school building regulations prescribed by the Department of Labor and Industry. (b) Conditions. Facilities for special education programs and services shall include proper conditions for lighting, natural and artificial, ventilation,

XXXIV Related Services

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Related ervices	PL94-142	Federal Regulations State Standards	
Defined con't.		S.S. 341. 59	acoustical treatment, heating, and storage of materials and adequate supplies to insure a barrier-free learning environment. (c) Itinerant Staff. Itinerant teachers and specialists shall be provided with suitable and appropriate space for working with exceptional school-aged persons individually or in small groups within a school building.
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		F.R. 121a. 753	Criteria For Counting Children. See-XI ITEM: Count of Children (Annual Report).
		F.R. 121a. 754	Other Responsibilities of SEA. See-XLI ITEM: Time Limits and Timetables (Report of Children Served).
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Defined	20 USC 1401(16)	F.R. 121a. 14	Special Education. (a)(1) As used in this part, the term "special education" means specially designed instruction at no cost to the parent, to meet the unique needs of a handicapped child, including classroom instruction in physical education, home instruction, and instruction in hospitals and institutions. (2) The term includes speech pathology, or any other related service, if the service consists of specially designed instruction at no cost to the parents, to meet the unique needs of a handicapped child, and is considered special education rather than a related service under State standards. (3) The term also includes vocational education if it consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a handicapped child. (b) The terms in this definition are defined as follows. (1) "At no cost" means that all specially desgined instruction is provided without charge, but does not preclude incidental fees which are normally charged to non-handicapped students or their parents as a part of their regular education program. (2) "Physical education" is defined as follows. (i) The term means the development of. (A) Physical and motor fitness; (B) Fundamental motor skills and patterns, and (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports).

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Special Education	PL94-142	Federal Regulations State Standards	
Defined con't.		F.R. 121a. 14	(ii) The term includes special physical education, adapted physical education, movement education, and motor development. (3) Vocational education means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree. Note: It is important to keep in mind that, if a child does not need special education there can be no related services."
		S.S. 341. 1	Special Education. A basic education program planned to meet the educational needs of exceptional persons.
Free Appropriate Public Education			See-XV ITEM: FAPE
Grouping		S.S. 341. 53	Grouping. (a) Students shall be grouped according to their needs and chronological age in accordance with the following, provided that individual students shall be assigned in accordance with their Individualized Education Program. (1) Elementary. Elementary programs shall include exceptional school-aged persons up to approximately 12 years and six months of age. (i) Primary programs, when established, shall include school-aged exceptional persons up to approximately nine years and

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Special Education	PL94-142	Federal Regulations State Standards	
Grouping con't.		S.S. 341. 53	six months to approximately 12 years and six months of age. (2) Secondary. Secondary school programs shall include exceptional school-aged persons from approximately 12 years and six months to 21 years of age. If the exceptional school-aged person reaches the age of 21 any time after the school year begins, the person shall be allowed to continue in the program for that entire school year. (1) Junior high school programs, when established, shall include school-aged exceptional persons from approximately 12 years and six months to approximately 15 years and six months of age. (2) Senior high school programs, when established, shall include school-aged exceptional persons from approximately 15 years and six months to 21 years. If the exceptional shcool-aged person reaches the age of 21 after the school year begins, the person shall be allowed to continue in the program for that entire school year. (3) Middle Schools. Middle school programs shall be established by prior approval from the Department in order to meet particular grouping arrangements within these schools.
Grouping (Curricula)		S.S. 341. 55	Curricula. (a) General Rule. Special education curricula shall be designed to meet the needs of special persons and shall be adapted, whereever possible, from regular curricula.

XXXVI Special Education

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Special Education	PL94-142	Federal Regulations State Standards	
Grouping (Curricula) con't.		S.S. 341. 55	(b) Integration. Special education curricula shall be designed to coincide with regular education curricula and shall allow for and lead to the integration of school-aged exceptioral persons in regular education programs when their needs dictate that regular education curricula is more appropriate. (c) Life Skills. Special education curricula shall be designed to stress general life skills and to maximize independence for those school-aged exceptional persons who differ to such an wxtent that their needs dictate curricular offerings different from those in regular education. (d) Competencies. The curricula shall call for the acquisition of specific competencies in all areas of developmemt, that is, cognitive, language, social, motor, self-help, vocational, and the like, in accordance with the Individualized Education Program of the student. (e) Review. Special education curricula shall be subject to a review at least every two years and to revision as required.
Individualized Education Program			See-XXI ITEM: I.E.P.
Operating Agent		S.S. 341. 22	(a) Designation. The operating agent for special education programs and services shall be designated in the provisions of #341.31 of this title (relating to plans). (1) District operation. Special education programs and services

XXXVI Special Education

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Special Education	PL94-142	Federal Regulations State Standards	
Operating Agent con't.		S.S. 341. 22	shall be developed and operated by a school district when the school district is able to provide effective and efficient programs, including adequate housing and supervision. (2) Intermediate unit operation. Special education programs and services shall be developed and operated by the intermediate unit when the school district cannot effectively and efficiently support such programs and services. (3) Cooperative agreement. To meet the needs of individual school aged exceptional persons, a cooperative agreement may be developed among districts and intermediate units. (4) Approved private school. To meet the needs of certain individual school-aged exceptional persons, an approved private school assignment shall be recommended and approved by district and intermediate unit professional staff whenever an appropriate placement cannot be provided within the local public schools solely because of the nature and incidence of the handicapping condition of the student. Whenever a school district and intermediate unit agree that the only source of an appropriate program of education for a school-aged person is in an approved private school, in accordance with the stated admission policy of the particular school, the recommendation and supporting evidence shall be forwarded to the Department for final approval in accordance with #171.13 and #171.16 of this title

XXXVI Special Education

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Special Education	PL94-142	Federal Regulations State Standards	
Operating Agent con't.		S.S. 341. 22	(relating to assignment and reevaluation). (b) Powers and duties. The operating agent shall determine the operational, organizational, and administrative procedures of the special education programs and services it operates subject to the provisions of the school laws, Part 1 of this title (relating to Board of Education), and this chapter.

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XXXVII State Advisory Panel

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		F.R. 121a. 651	Membership. See-II ITEM: Advisory Panel (General Requirements).
		F.R. 121a. 652	Functions. See-XIII ITEM: Evaluation (Advisory Panel).
		F.R. 121a. 653	Procedures. See-II ITEM: Advisory Panel (General Requirements).

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XXXVIII State Direct and Support Services

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General Requirements		F.R. 121a. 360	Use of LEA Allocation for Direct Services. See-I ITEM: Administration (Direct Services by SEA).
		F.R. 121a. 361	Nature and Location of Services. See-XXII ITEM: Least Restrictive Environment (Nature of Services).
		F.R. 121a. 370	Use of SEA Allocation for Direct and Support Services. See-XXVII ITEM: Personnel Development (Included in State Support Services).
		F.R. 121a. 371	State Matching. See-XXIII ITEM: Matching (State Funds).
	20 USC 1411(c)(3)	F.R. 121a. 372	Applicability of Nonsupplanting Requirement. Beginning with funds appropriated for Fiscal Year 1979 and for each following Fiscal Year, the requirement in section 613(a)(9) of the Act, which prohibits supplanting with Federal funds, does not apply to funds that the State uses from its allocation under #121a. 706(a) (Within-State Distribution; Fiscal Year 1979 and After) for administration, direct services, or support services.

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Supplanting	PL94-142	Federal Regulations State Standards	
Applicability to SEA		F.R. 121a. 372	Applicability of Nonsupplanting Requirement. See-XXXVIII ITEM: State Direct and Support Services (General Requirement).
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XL Surrogate Parents

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Surrogate Parents	PL94-142	Federal Regulations State Standards	
Definition (of parent)	20 USC 1415	F.R. 121a. 10	Parent means a parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance 121a. 514 (Surrogate Parents). See below. Note: The term does not include the State if the child is a ward of the State. However, the term does include a person who is legally responsible for the child's welfare.
		S.S. 341. 1	Parent: A parent or guardian or an individual acting as as a surrogate parent in the absence of a parent or guardian of any person of school age. Surrogate Parent: A person appointed by the intermediate unit to act as the parent of a school-aged person when the parents are not known or unavailable, or when the school-aged person is a ward of the State or local education agency involved in the education or care of the school-aged person.
Duty of Public Agency to Assign	20 USC 1415(b)(1)(B)	F.R. 121a. 514	General: Each public agency shall insure that the rights of the child are protected when: (1) No parent (as defined in 121a. 10, see above) can be identified; (2) After reasonable efforts, the whereabouts of a parent cannot be discovered; or (3) The child is a ward of the State.
		F.R. 121a. 514	Duty of Public Agency: The public agency must see to it that an individual is assigned to act as a surrogate for the parents. This duty must include a method (1) for determining

XL Surrogate Parents

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Surrogate Parents	PL94-142	Federal Regulations State Standards	
Duty of Public Agency con't.		F.R. 121a. 514	whether a child needs a surrogate parent and (2) for assigning a surrogate parent to the child. Criteria for Selection of Surrogates: (1) The public agency may select a surrogate parent in any way permitted under State law. (2) Public agencies shall insure that a person selected as a surrogate: (i) Has no interest that confilicts with the interests of the child he or she represents; and (ii) Has knowledge and skills, that insure adequate representation of the child. Non-employee Requirement: (1) A person assigned as a surrogate may not be an employee of a public agency which is involved in the education or care of the child. (2) A person who otherwise qualifies to be a surrogate parent is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent. Responsibilities: The surrogate parent may represent the child in all matters relating to: (1) The identification, evaluation and educational placement of the child, and (2) The provision of a free appropriate public education to the child.

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XLI. Time Lines and Timetables

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Time Lines	PL94-142	Federal Regulations State Standards	
Annual Program Plan (Effective Period)	20 USC 1413 (a), 1232c(b)	F.R. 121a. 114	Effective Period: Each annual program plan is effective for a period from the date it becomes effective under 100 b. 35 of this chapter through the following June 30 (100 b.35 refers to the effective date of an application, plan or amendment. State plan, general application, annual program plan or amendment to any of them, is effective on the date the State submits it to the Federal Government in substantially approvable form. The effective date cannot be earlier than the first day of the fiscal period for which it is submitted. The Commissioner may extend the effective period of an annual program plan, on the request of the State, if the plan meets the requirements of this part and Part B of the Act.
		S.S. 341.32	Each Intermediate Unit shall annually revise its plan in cooperation with its constituent school districts and, where appropriate, with approved private schools and other Intermediate Units.
Evaluation (Educational Programs)	20 USC 1413 (a) (11)	F.R. 121a. 146	Each annual program plan must include procedures for evaluation, at least annually, of the effectiveness of programs in meeting the educational needs of handicapped children, including evaluation of individualized education programs.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Time Lines	PL94-142	Federal Regulations State Standards	
Free Appropriate Public Education (FAPE)	20 USC 1412 (2) (B)	F.R. 121a. 122	General: Each annual program plan must include, in detail, the policies and procedures which the State will undertake, or has undertaken in order to insure that a free appropriate public education is available for all handicapped children aged three through eighteen within the State not later than September 1, 1978 and for all handicapped children aged three through twenty-one within the State not later than September 1, 1980. Documents: Each annual program plan must include a copy of each statute, court order, attorney general's decision, and other State documents which demonstrates that the State has established timelines in accordance with this section. Exception: The requirement in this paragraph does not apply with respect to handicapped children aged three, four, five, eighteen, nineteen, twenty or twenty-one, to the extent that the requirement would be inconsistent with State law or practice, or the order of any court, respecting public education for one or more of those age groups in the State. Documents Relating to Exceptions: 1) Describe in detail the extent to which the exception (see above) applies to the State, and 2) Include a copy of each State law, court order, and other document which provides a basis for the exception.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Time Lines	PL94-142	Federal Regulations State Standards	
(FAPE) Continued	20 USC 1412 (2) (B); Senate Report No. 94-168 Page 19 (1975)	F.R. 121a. 300	Timelines for FAPE: Each State shall insure that free appropriate public education is available to all handicapped children aged three through eighteen, not later than September, 1978, and to all handicapped children aged three through twenty-one, within the State not later than September 1, 1980. Age Ranges 3-5 and 18-21:1) If State law or a court order requires the State to provide education for handicapped children in any disability category in any of these age groups, the State must make a free appropriate public education available to all handicapped of the same age with the same disability. 2) If a public agency provides education to non-handicapped children in any of these age groups, it must make a free appropriate public education available to at least a proporttionate number of handicapped children of the same age. 3) If a public agency provides education to 50% or more of its handicapped children in any disability category in any of these age groups, it must make a free appropriate public education available to all of its handicapped children of the same age who have that disability. 4) If a public agency provides education to a handicapped child in any of these age groups, it must make a free appropriate public education available to that child and provide that child and his or her parents all of the rights under Part B of the Act and this part.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Time Lines	PL94-142	Federal Regulations State Standards	
FAPE) Continued	20 USC 1412 (2) (B); Senate Report No. 94-168 Page 19 (1975)	F.R. 121a. 300	5) A State is not required to make a free appropriate public education available to a handicapped child in one of these age groups if: (i) State law expressly prohibits, or does not authorize, the expenditure of public funds to provide education to non-handicapped children in that age group; or (ii) The requirement is inconsistent with a court order which governs the provision of free public education to handicapped children in that State.
ull Educational pportunity Goal	20 USC 1412 (2) (A)	F.R. 121a. 125	Timetable: Each annual program plan must contain a detailed timetable for accomplishing the goal of providing full educational opportunity for all handicapped children. Content of Timetable: 1) The timetable must indicate what percent of the total estimated number of handicapped children in the State expects to have full educational opportunity in each succeeding school year. 2) The following data must be provided: (i) For each disability category (except for children aged birth through two), and (ii) For each of the following age ranges: birth through two, three through five, six through seventeen and eighteen through twenty-one.
	20 USC 1414 (a) (1) (C) (D)	F.R. 121a. 222	Each application (local educational agency) must include a goal of providing full educational opportunity and include a detailed timetable for accomplishing the goal.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Time Lines	PL94-142	Federal Regulations State Standards	
earing Decisions	20 USC 1415	F.R. 121a. 512	Timelines and Convenience of Hearings: (a) The public agency shall insure that not later than 45 days after the receipt of a request for a hearing: 1) A final decision is reached in the hearing; and 2) A copy of the decision is mailed to each of the parties. (b) The State educational agency shall insure that not later than 30 days after the receipt of a request for a review: 1) A final decision is reached in the review; and 2) A copy of the decision is mailed to each of the parties. (c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party. (d) Each hearing and each review involving oral arguments must be conducted at a time and place which is reasonably convenient to the parents and child involved.
	20 USC 1232 (c); 1413 (a) (9) (b); 1413 (c); 1416	F.R. 121a. 583	OFFICE OF EDUCATION PROCEDURES Initial Decision; Final Decision: (a) The Hearing Panel shall prepare an initial written decision which includes findings of fact and the conclusions based on those facts. (b) The Hearing Panel shall mail a copy of the initial decision to each party (or to the party's counsel) and to the Commissioner, with a notice that each party has an opportunity to submit written comments regarding the decision to the Commissioner within a specified reasonable time.

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Time Lines	PL94-142	Federal Regulations State Standards	
Hearing Decisions (Continued)	20 USC 1232 (c); 1413 (a) (9) (b); 1413 (c); 1416	F.R. 121a. 583	(c) The initial decision of the Hearing Panel is the final decision of the Commissioner unless, within 25 days after the end of the time for receipt of written comments, the Commissioner informs the Panel in writing that the decision is being reviewed. (d) Review by the Commissioner is based on the decision, the written record, if any, of the Hearing Panel's proceedings, and written comments or oral arguments by the parties. (e) No decision under this section becomes final until it is served on the State educational agency or its attorney.
		S.S. 341. 18	Hearing Officer Decision: Timelines for Program Planning Conference: After the decision of a hearing officer that an Individualized Education Program should be developed, the conference shall be scheduled within ten days after the decision has been rendered.
I.E.P.'s			See: XXI ITEM: I.E.P. (Effective Dates; Meetings)

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Time Lines	PL94-142	Federal Regulations State Standards	
Public Participation (in Annual Program Plan)	20 USC 1412 (7)	F.R. 121a. 280	Public Hearings Before Adopting An Annual Program Plan: Prior to its adoption of an annual program plan, the SEA shall: 1) Make the plan available to the general public, 2) Hold public hearings, and 3) Provide an opportunity for comment by the general public on the plan.
	20 USC 1412 (7)	F.R. 121a. 284	Publication and Availability: After the Commissioner approves an annual program plan, the SEA shall give notice in newspapers, or other media, or both, that the plan is approved. The notice must name places throughout the State where the plan is available for access by any interested person.
Reevaluation			See: XXI ITEM: I.E.P. (Reevaluation)
Report (Of Children Served)	20 USC 1411 (a) (3)	F.R. 121a. 750	Annual Report of Children Served: The SEA shall report to the Commissioner no later than April 1 of each year the number of handicapped children aged three through twenty-one residing in the State who are receiving Special Education and related services. The State shall submit the report on forms provided by the Commissioner.
	20 USC 1411 (a) (3); 1417 (b)	F.R. 121a. 754	Other Responsibilities of SEA: The SEA shall: a) Establish procedures to be used by the LEA and other educational institutions in counting the number of handicapped children receiving. Special Education and related services; b) Set dates by which those agencies and institutions must report to the State educational agency to insure that the State complies with 121a. 750 (see above).

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ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Time Lines	PL94-142	Federal Regulations State Standards	
Report (Of Children Served) (Continued)	20 USC 1411 (a) (3); 1417 (b)	F.R. 121a. 754	c) Obtain certification from each agency and institution that an unduplicated and accurate count has been made; d) Aggregate the data from the count obtained from each agency and institution and prepare the reports required under this subpart; and e) Insure that documentation is maintained which enables the State and the Commissioner to audit the accuracy of the count.
State Monitoring (Of Public Agencies)	20 USC 1412 (6); 1413 (a) (11)	F.R. 121a. 601	Monitoring and Evaluation: Each SEA shall: a) Undertake monitoring and evaluation activities to insure compliance of all public agencies within the State with the requirements of Subparts C, D, and E. b) Develop procedures (including specific timelines) for monitoring and evaluating public agencies involved in that education of handicapped children. These procedures must include: 1) Collection of data and reports; 2) Conduct of on-site visits; 3) Audit of Federal fund utilization; and 4) Comparison of a sampling of I.E.P.'s with the programs actually provided.
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(Entitlements)	20 USC 1411(a)(2)	F.R. 121a. 700	Special Definition of the Term State. The term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.
		F.R. 121a. 701	State Entitlement; Formula. See- III ITEM: Allocation (State Allocation).
		F.R. 121a. 702	Limitations and Exclusions. See- III ITEM: Allocations (State Allocations).
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	20 USC 1414(e)	F.R. 121a. 708	Reallocation of LEA Funds. If an SEA determines that an LEA is adequately providing a free appropriate public education to all handicapped children residing in the area served by the local agency with State and local funds otherwise available to the local agency, the SEA may reallocate funds (or portions of those funds which are not required to provide special education and related services) made available to the local agency under #121a. 707 (LEA Entitlement), to other local educational agencies within the State which are not adequately providing special education and related services to all handicapped children residing in the areas serviced by the other LEA's.
		F.R. 121a. 709	Payments to Secretary of Interior. See-III ITEM: Allocations (Interior Department).
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		F.R. 121a. 183	Meeting the Excess Cost Requirement. See-XXXIII ITEM: Records (Excess Costs).
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Local Application Requirement		F.R. 121a. 238	Use of Part B Funds. See-VI ITEM: Application by Local Agency (Content).
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		F.R. 121a. 302	Residential Placement. See-XV ITEM: FAPE (Generally).

XLII Use of Part B Funds

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Use of Part B Funds	PL94-142	Federal Regulations State Standards	
State and Local Educational Agencies con't. (Full Educational Opportunity Goal)		F.R. 121a. 304(b)	Full Educational Opportunity Goal. See-XVI ITEM: Full Educational Opportunity Goal (General Requirements).
(Priorities)		F.R. 121a. 320	Definitions of "First Priority." See-XV ITEM: FAPE (Priorities).
		F.R. 121a. 321	Priorities. See-XXVII ITEM: Personnel Development (Pre-service Training).
		F.R. 121a. 322	First Priority Children-School Year 1977-1978. See-XXI ITEM: I.E.P. (First Priority).
		F.R. 121a. 323	Services to Other Children. See-XV ITEM: FAPE (Priorities).
		F.R. 121a. 324	Application of LEA to Use Funds for Second Priority. See-VI ITEM: Application by Local Agency (Second Priority).
(Private School Children)		F.R. 121a. 450-460	See-XXX ITEM: Private School Children (Handicapped Children Not Placed or Referred by Public Agencies).
State Educational Agencies (Allowable Costs)		F.R. 121a. 621	Allowable Costs. See-III ITEM: Allocations (Uses for Administration).
(Federal Funds for State Administration)		F.R. 121a. 620	Federal Funds for State Administration. See-III ITEM: Allocations (Use for Administration).

XLII Use of Part B Funds

ITEM	REQUIREMENT	COMPLIANCE POLICIES/PROCEDURES	
Use of Part B Funds	PL94-142	Federal Regulations State Standards	
State Educational Agencies con't.			
(Matching)		F.R. 121a. 371	State Matching. See-XXIII ITEM: Matching (Matching).
(State Advisory Panel		F.R. 121a. 652	Advisory Panel-Functions. See-XIII ITEM: Evaluation (Advisory Panel).
(Use of Allocation for Direct Services)		F.R. 121a. 360	Use of LEA Allocation for Direct Services. See-I ITEM: Administration (Direct Service).
		F.R. 121a. 361	Nature and Location of Services. See-XXII ITEM: Least Restrictive Environment (Nature of Services).
(Use of SEA Allocation for Direct and Support Services)		F.R. 121a. 370	Use of SEA Allocation for Direct and Support Services. See-XXVII ITEM: Personnel Development (Included in State Support Services).
Supplanting		F.R. 121a. 230	Nonsupplanting. See-VI ITEM: Application by Local Agency (Content).
		F.R. 121a. 372	Applicability of Nonsupplanting Requirement. See-XXXVIII ITEM: State Direct and Support Services (General Requirements).
		F.R. 121a. 589	Waiver of Requirement Regarding Supplementing and Supplanting With Part B Funds. See-XVIII ITEM: Hearings (Office of Education Procedures).
Training			See-XXVII ITEM: Personnel Development.

APPENDIX

Constant Enrollment (ADM) by Organizational Patterns*

Program Category and/or Level	Itinerant	Resource Rooms	Part Time	Full Time
EMR Elementary	15-50	15-20	10-15	10-15
EMR Secondary	15-50	15-20	15-18	10-15
TMR Elementary	None	None	10-15	8-12
TMR Secondary	None	None	15-18	8-15
S & P Retarded	None	None	None	4-8
S&ED Elementary	15-50	15-20	10-15	6-12
S&ED Secondary	15-50	15-20	10-15	8-12
BI/LD Elementary	15-50	15-20	10-15	6-12
BI/LD Secondary	15-50	15-20	10-15	8-12
HI El./Sec.	15-50	5-15	6-10	5-8
SP & L El./Sec.	20-90**	None	None	5-8
PH El./Sec.	15-50	5-15	6-12	6-12
Detention El./Sec.	None	None	None	1-15
VH El./Sec.	15-50	5-15	8-15	5-12
Gifted Elementary	15-75	10-20	10-18	10-18
Gifted Secondary	15-75	10-20	10-18	10-18

* The teacher's register is to carry no less than the minimum CE (ADM) of any pattern in the chart.

** Sessions with the child for Speech and Language:

20 (ADM) students (5 sessions/student/week)

25 (ADM) students (4 sessions/student/week)

45 (ADM) students (2 sessions/student/week)

90 (ADM) students (1 session/student/week)

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